

Marvel v Kirby: Full Deposition of Stan Lee, Los Angeles, May 13, 2010



One of the most frustrating aspects of the [Marvel vs the Kirby Estate court case](#) was the release of redacted depositions as opposed to full depositions. Unlike the Siegel v DC Comics case where we have full depositions to view (which I've collected in the [second volume of The Trials of Superman](#)), the Kirby case was riddled with portions of depositions all over the place, meaning a lot of work went into collecting them and putting them back into order. There's many reasons for this, from a legal viewpoint, and at some point when I have the time and inclination I'll explain them, but not right now. Suffice to say the frustration of not knowing what was said, or reading a deposition and seeing it cut off just when you find it leading towards something very interesting is maddening. Still, such is life and you quickly learn to deal with it by not speculating or trying to fill in any gaps..

However, with all such court cases, every so often a gem in the form of a complete deposition finds its way into a docket entry, almost always hidden away - such is the case with this deposition, and it's a beauty; the big man himself - Stan Lee. If there's one person who represents both the face of Marvel, and as such the face of everything that the Kirby camp, and Kirby supporters, globally, resent - nay - outright hate - it's Stan Lee. Stan has made millions from Marvel Comics, and each year that amount increases by an estimated \$1,250,000 - and that's just the base salary. Stan also earned an estimated \$10,000,000 from the resolution of his own lawsuit against Marvel, a suit that was settled as quickly as Marvel could complete, and that fact still enrages Kirby supporters, never mind that settlement talks were in progress between the Kirby family and Marvel before the current suit was filed. Certainly Stan is just another name for Satan in the view of the Kirby family and supporters who feel that Lee created nothing, wrote nothing and took both money and credit away from Jack Kirby. It's a debate not worth getting into really.



This now leaves us with one full deposition being quietly released and the hope is that more will follow. Until they do, either enjoy, or don't enjoy depending on your

viewpoint, this complete deposition of Stan Lee, talking about his role at Marvel and the working process of himself and Jack Kirby, back in the glory days of Marvel Comics. I'm sure a number of people will denounce this deposition as more of Stan's lies, others will feel vindicated. Such is the impact that Stan still carries with him, to this day. It's a long one, but well worth the read.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

MARVEL WORLDWIDE, INC., MARVEL CHARACTERS, INC. and MVL RIGHTS,
LLC,

PLAINTIFFS,

VS.

LISA R. KIRBY, BARBARA J. KIRBY, NEAL L. KIRBY and SUSAN N. KIRBY, DE-
FENDANTS.

Videotaped Deposition of Stan Lee, Los Angeles, California, May 13, 2010

APPEARANCES

REPRESENTING THE PLAINTIFFS:

Weil, Gotshal & Manges, Llp

BY: James W. Quinn, ESQ.

ANDI W. Singer, ESQ.

-AND-

Haynes And Boone, LLP

BY: David Fleischer, ESQ.

REPRESENTING THE DEFENDANTS:

Toberoff & Associates, P.C.

BY: Marc Toberoff, ESQ.

FOR THE WITNESS:

Ganfer & Shore, LLP

BY: Arthur Lieberman, ESQ.

ALSO PRESENT:

Eli Bard, Marvel Entertainment

Los Angeles, California; Thursday, May 13, 2010

THE VIDEOGRAPHER: This is the start of DVD labeled No. 1, the videotaped deposition of Stan Lee in the matter of Marvel Worldwide, Inc. versus Lisa R. Kirby, et al. filed in the United States District Court, Southern District of New York, Case No. 10-141-CMKF.

This deposition is being held at 515 South Flower Street, Los Angeles, California on May 13th, 2010, at approximately 9:35a.m. Will counsel present please identify yourselves for the record.

MR. QUINN: Jim Quinn, Weil Gotshal & Manges, representing the Marvel entities.

MS. SINGER: Randi Singer with Weil Gotshal representing the Marvel entities.

MR. FLEISCHER: David Fleischer with Haynes & Boone also representing Marvel.

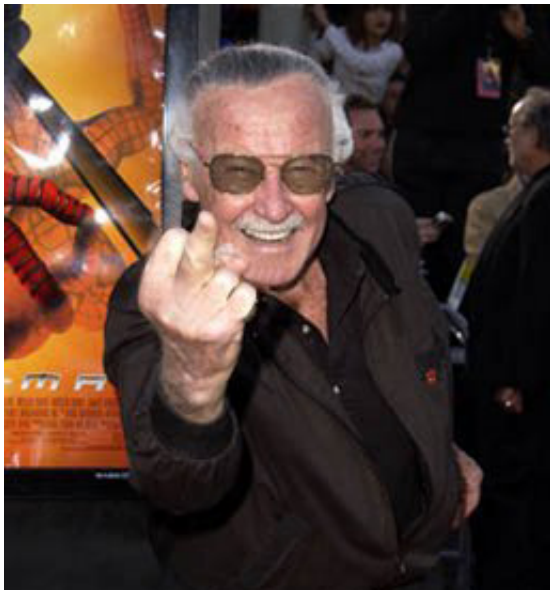
MR. BARD: Eli Bard, Deputy General Counsel, Marvel Entertainment.

MR. TOBEROFF: Marc Toberoff representing the Kirby children.

MR. LIEBERMAN: Arthur Lieberman representing Stan Lee.

THE WITNESS: Stan Lee, I guess representing Stan Lee.

THE VIDEOGRAPHER: Will the court reporter please swear in the witness.



STAN LEE, having first been duly sworn, was examined and testified as follows:

EXAMINATION BY MR. QUINN: Good morning, Mr. Lee.

A: Good morning.

Q: And we've met before, haven't we?

A: Yes.

Q: And you know that I represent Marvel and the Marvel entities and also Disney in connection with this matter?

A: Yes.

Q: And I'm going to be asking you some questions today about information you may have relevant to the matter. You understand that?

A: Right.

Q: You also understand that this is a deposition that's being held pursuant to a court order in New York?

A: I'm sorry, I --

Q: That the deposition is being held pursuant to a court order issued by the Court?

A: Oh, yes. I understand.

Q: And you and I met before? We met yesterday?

A: Right.

Q: And we met on at least one other previous occasion?

A: Yes.

Q: And we talked about what knowledge you may have that would be relevant to the issues in this case.

A: Yes, we did.

Q: Could you tell us, sir, how old you are?

A: 87.

Q: And give us your educational background. I thought you were 88. You're a young man.

A: Well, I'm 87 and-a-half, I guess.

Q: Okay, 87 and-a-half.

A: I went to high school in New York City at DeWitt Clinton High School. And that's about the extent of it.

Q: And when did you graduate from DeWitt Clinton High School?

A: You know, honest to God, I don't remember the year, but I did graduate.

Q: Fair enough. And did you serve in the military?

A: Yes. I was in the US Army Signal Corps in World War II.

Q: And how long were you in the military?

A: Three years.

Q: And could you briefly or as briefly as you can, tell us your employment history after you left DeWitt Clinton High School?

A: Well, I had a lot of different jobs. I was -- I wrote obituaries for a press service. I was an office boy. I was an usher. I did some advertising for the National Jewish Hospital at Denver. I never knew what I was supposed to be advertising, whether telling people to get sick to go to the hospital, but... And finally I got a job at a place called

Timely Comics which published comic books.

Q: And approximately when was that? The late 1930s, 1940s?

A: I think it must have been 1930 or 1940, somewhere around there.

Q: And what was your first job responsibility at Timely?

A: Well, I was hired by two people, Joe Simon and Jack Kirby, who were producing the comics at that time for this company which was called Timely Comics.

Q: And --

A: And my job was to really be an assistant. I went down, and I got them their lunch sandwiches for them, and I filled their -- in those days they dipped the brushes in ink and used pencil sharpeners. And I sharpened the pencils. I erased the pages after they were finished. And I did whatever an assistant or an office boy would do.

Q: And at that time who was running or owned Timely?

A: The company was owned by a man named Martin Goodman.

Q: And he was the publisher?

A: Yes.

Q: And did Timely -- is Timely a predecessor or did Timely eventually become what we now know as Marvel?

A: That's right. It had many different names over the years, and it finally became Marvel.

Q: And do you currently do work for Marvel?

A: Oh, yes. Yes, I do.

Q: And what does that involve?

A: Pardon me?

Q: What does that involve? What does your work involve with Marvel?

A: Oh, mainly now I write occasional stories for them. And I do promotion and publicity for them, and whatever they ask me to do, really. I -- little things that have to do

-- sometimes I do cameos in their movies. And I appear on panels at conventions. Things like that.

Q: You recently were Larry King in Iron Man 2?

A: Yeah, I did that, too.

Q: And do you receive compensation from Marvel?

A: Yes.

Q: Now, do you also have a company called Pow --

A: Yes, I do.

Q: -- that you're involved in? And what is Pow?

A: Pow is an entertainment company. And what we do is we seek to produce movies, television shows, things for the Internet. Whatever we can in the field of entertainment.

Q: And does that company Pow have a contractual relationship with the Disney company?

A: Yes. They -- we have a first look. See, I'm not good at the technical part of this, but it's some sort of a first look deal. Whatever we create, we show to Disney first, and hopefully they will want to make use of it. If not, then we can bring it elsewhere.

Q: And you've had that deal with them for a number of years?

A: Yes.

Q: Going back to the mid around 2006?

A: I think so.

Q: Now, I believe you just told us that you began work at let's just call it Marvel unless, you know, we specifically have to refer to one of the prior names, around 1940 or so?

A: About then.

MR. LIEBERMAN: Excuse me one minute. He's got no access to this nor do I. Can you fix it?

THE REPORTER: I can.

MR. LIEBERMAN: Just two seconds.

THE VIDEOGRAPHER: Off video at 9:42a.m.

(Recess.)

THE VIDEOGRAPHER: Back on video at 9:46 a.m.

MR. QUINN: You mentioned just a few minutes ago before we took our short break that you had started as, I guess, an apprentice effectively at Timely Marvel around 1940. Did there come a time that you were -- you got a promotion?

A: Yes.

Q: Tell us about how that occurred.

A: Joe Simon and Jack Kirby were really the only two people there producing the comics, and for some reason they left, and I was the only guy left in the department. So Martin asked me if I could sort of function as the editor and art director and writer until he hired someone, a grown up. And I said, sure. You know, when you're 18 years old, what do you know? I said, Sure, I can do it. And I think he forgot to hire a grownup, because I was there ever since.

Q: Right. 60 years later they still haven't hired a grownup?

A: I'm still waiting.

Q: But you had grown up.

Now, did you have an understanding at the time or did you come to have an understanding as to why Simon and Kirby were let go?

A: I didn't know at the time, but I have heard much later from a number of different people that it had something to do with -- they were supposed to have been working exclusively for Martin Goodman, and he found out they had, I think, been doing some work for some other company. Something like that.

Q: And he fired them, in effect?

A: I guess. Yeah.

Q: Now, when you became the editor, what were your job responsibilities?

A: Well, I was writing a lot of the stories, and I also would hire different artists to draw the stories, artists, letterers, inkers, so forth.

Q: And was it your responsibility to hire the writers and other artists and inkers and so forth and give them assignments --

A: Yes.

Q: -- with regard to what they were going to actually be doing?

A: Yes.

MR. TOBEROFF: Objection. Leading.

Q: And who oversaw -- tell us a little bit how that assignment process worked.

A: Well, it was my job to dream up new characters or to continue with the characters we had and to pick the best artists and the best writers unless I wrote something myself - I had the privilege, which now that I think back, it was rare, but I could either write stories myself or I could hire writers. I couldn't write everything. And it was my job to hire the artists to draw the stories. And I did that for quite a number of years.

Q: And did you give instructions to the artists as to how you wanted the story to go?

A: Oh, yes. That was my job as Art Director.

Q: So in addition to writing, you were also the Art Director?

A: Yes.

Q: Now, who oversaw -- whose responsibility was the creative editorial aspects of the comic books that were created?

A: Well, the responsibility was mine, because I had to answer to the publisher, Martin Goodman, and he had to be happy with what I was doing.

Q: Did you have the ability to not only make assignments but also to edit and change things that other writers or artists did in connection with the comics?

A: Yeah. That was my job. If, for example, I saw some art work, and I felt there wasn't enough action on a page, or it was confusing, the reader might not know what it

was, or in a script if I felt there was too much dialogue or too little dialogue, it was -- it was up to me to make the stories as good as I could make them.

Q: Now, you mentioned that you did perform services not only as an editor but also as a writer.

A: Mm-hmm.

Q: Did you consider the services you performed as a writer part of your duties as the editor or something additional?

A: Well, I never thought of it that way. I was the Editor. I was the Art Director. And I was also a staff writer.

Q: And how were you paid in connection with the work that you did?

A: How was I paid?

Q: How were you paid in connection with the work as Editor and as a writer?

A: I received a salary which paid me as Editor and Art Director, but I got paid on a freelance basis for the stories that I wrote.

Q: And when you say you were paid on a freelance basis, how were you paid? On what basis?

A: The same as every other writer. I was paid per page, so much money per page of script.

Q: There was a fixed amount of money --

A: Yes.

Q: -- for each page?

A: Yes.

Q: And was there a policy or did you have a policy to pay writers and artists on that per page rate whether or not the page was actually used or published?

A: Oh, yes. Even if we didn't publish -- if an artist drew a 10-page story, and the artist rate was \$20 a page, I would put in a voucher for \$200 for that artist.

Now, if -- and this happened rarely --- but if we decided not to use that story, the

artist would still keep the money because he had done the work. It wasn't his fault. So -- and that's the way it was. Everybody was paid per page.

Q: Now, you mentioned that you had the right to edit and make changes. Was there anyone else in addition to you who had the right to edit and make changes --

A: Yes.

Q: -- in the work? Who was that?

A: Oh, my boss, Martin Goodman, though he really didn't edit. He would just call me into his office and say: "Jeez, Stan. I didn't think that story was good. Do a better one next time. This book didn't sell so well. I think you better see what's wrong. Maybe it needs a new artist or a new writer." Things like that. But I did the actual detail work.

Q: Were there times where Mr. Goodman would tell you that he didn't want something to be done a certain way --

A: Yeah.

Q: -- and you changed?

A: Yes, there were. Not that often, but yes.

Q: But that was your understanding of how the process worked?

A: Oh, absolutely. He was the -- he was the ultimate boss.

Q: And did he have the final say on what was published back in the 1950s and 60s?

A: Yes. As long as he was the publisher, he did.

Q: Did Mr. Goodman ever edit any of your work?

A: Not too often except every so often he'd say: I think you're putting in too much dialogue. I don't think the readers want to read that much. And I always disagreed with him, so I would sneak in as much dialogue as I could.

Q: Now, was this pretty much the practice that existed at Marvel beginning when you started as Editor in the early 1940s and then up through the time that you became the publisher in the late 1960s?

MR. TOBEROFF: Vague and ambiguous.

Q: You can answer.

A: Yes.

Q: And did this process of assignment and so forth come to be known as the Marvel method?

A: Oh, no. No. The Marvel method referred to something else.

Q: Okay. Why don't you describe the Marvel method?

A: There was a time when I was writing so many stories that I couldn't keep up with the artists. I couldn't feed them enough work. And, you see, the artists were freelancers. Now, for example, if Jack was working on a story, and Steve was waiting for me to give him a story because he had had finished what he had been doing --

Q: Jack being Jack Kirby?

A: Jack Kirby.

Q: And Steve Ditko?

A: Right. Or it could have been any of the artists. But just using them as an example, if one of them was waiting for a story while I was still finishing writing the story for the other one, I couldn't keep him waiting because he wasn't making money. He was a freelancer. He wasn't on salary. So I would say: Look, Steve, I don't have time to write your script for you, but this is the idea for the story. I'd like this fill in, and I'd like this to happen, and in the end the hero ends by doing this. You go ahead and draw it any way you want to, as long as you keep to that main theme. And I will keep finishing Jack's story. And when you finish drawing this one, I will put in all the dialogue and the captions.

So in that way I could keep one artist working while I was finishing something for another artist. That worked out so well that I began doing that with just about all the artists. I would just give them an idea for a story, let them draw it any way they wanted to. Because no matter how they drew it, even if they didn't do it as well as I might have wanted, I was conceited enough to think I could fix it up by the way I put the dialogue and the captions in. And I'd make sense out of it even if they may have made -- have done something wrong.

And I was able to keep a lot of artists busy at the same time by using that system. And I have never given that long an explanation before.

Q: Did you end up using that system -- and when did this come into play? In the 1950s and 60s, approximately?

A: Probably the 50s.

Q: During the time that you were the Editor?

A: I was always the Editor.

Q: Until the late 1960s when you became publisher?

A: Right.

Q: And in that process, did you always maintain the ability to edit and make changes or reject what the other writers or artists had created?

A: Oh, sure.

Q: And did you do that on a regular basis?

A: If something had to be rejected, sure.

Q: And that would include artwork that was done by, for example, Jack Kirby?

A: Yeah.

Q: And do you recall instances where that occurred?

A: It's a strange thing. I didn't recall it -- recall those instances too well. But I was talking to John Romita once. He was one of our artists. And we were talking about whether I had ever rejected any pages. And I said sometimes I can't remember. And he said, "Stan, don't you remember? Sometimes if somebody wanted a job as an inker at our place," and an inker is somebody who goes over the pencil drawings with ink so that they can be reproduced better at the engraver, he said, "If we wanted to test an inker to see how good he'd be, we would take one of the pages of Jack's that you hadn't used and ask the inker to ink over them as samples." And I had forgotten about that, but John Romita -- we were talking about that. It was a few years ago he told me that.

Q: And when you had that conversation with Mr. Romita, did that refresh your rec-

ollection that you had from time to time rejected pages from Jack Kirby?

A: Yeah. Actually probably less from Kirby than anybody else, because he was so good. But I had – there were times when things had to be rejected for a myriad reasons.

(Lee Exhibit 1 marked for identification.)

Q: Let me mark as Lee Exhibit 1 an affidavit, it's a document entitled "Affidavit of Stan Lee," and ask you to take a look at that.

MR. TOBEROFF: I would like to make a standing objection, if you will agree, otherwise I have to make it each time; that we were produced none of the documents you're using as exhibits in this deposition. They could have all been produced prior to this deposition to the Defendants and they were not. So that's a standing objection.

MR. QUINN: We're following -- just I don't want to make a long statement here. We're following the Federal rules in connection with our response to your document request. We, of course, had asked you to make document requests months ago, and you didn't. So you have your standing objection, and we can move on.

MR. TOBEROFF: Since you responded, I need to respond to what you said. You offered on multiple occasions to produce those documents prior to any deposition on an expedited basis. In fact, you sought the expedited deposition of Stan Lee on the basis that you would produce documents to us on an expedited basis. But when push came to shove and we scheduled a deposition with more than enough opportunity, but you failed to produce the documents.

So you will agree that this is a standing objection so we don't have to go through this every time?

MR. QUINN: Definitely you have your standing objection.

MR. TOBEROFF: Thank you.

MR. QUINN: I totally disagree given the fact that you rejected over and over again our offer. But in any event, let's move on and save time.

Okay. Now, could you take a look at the last page of the document entitled Affidavit of Stan Lee. It's page of the affidavit. And is that your signature?

A: Yes.

Q: And have you had an opportunity in the last day or so to review this affidavit?

A: I'd have to refresh my memory.

Q: Go ahead and refresh your recollection again.

A: That's right.

Q: And having reviewed the affidavit, is there anything in the affidavit as far as you know today that's inaccurate or wrong?

A: No, I don't think so.

Q: It's all truthful?

A: Mm-hmm. Yes.

Q: I'm just going to ask you a couple of questions --

A: Sure.

Q: -- about some of the things that's in the affidavit. You just testified a little while ago about the process that you utilized in connection with making assignments, and so forth. And paragraphs, I guess, and of this affidavit also describe the same methodology. In paragraph of the affidavit it reads, and I will just read it and you can follow along, it says, "Timely," that would be Marvel, "however, always maintained the right to direct the storylines and the right to edit any aspect of the materials I submitted for publication, including the characteristics of any existing or new characters I utilized in the storylines."

Now, would that also be true with regard to other writers and other artists; --

A: Wait.

Q: -- that Marvel maintained the right to direct the storylines --

A: Oh, yes. The artists and -- it held for the artists and the writers and the letterers and the inkers and the colorists and everybody.

Q: And the next sentence says, "At that time it was typical in the industry for comic book publishers to own the rights to the materials that were created for them for publication."

A: Yes.

Q: And that was your understanding --

A: Yes.

Q: -- at that time?

A: Yes.

Q: And that continued through the time that you stopped being the editor in the late 1960s?

A: Yes.

Q: So that would include the period of the 1950s and 60s?

A: Yes.

Q: And it further goes on that -- and that would apply not only to things that you created but also things that were created by other writers and other artists like Jack Kirby?

A: Yes. That's right.

Q: And that was the understanding in the industry at the time?

A: That was my understanding.

Q: And it goes on to say that "Timely," referring to Marvel, "would own whatever rights existed to all of the materials I created or co-created for publication."

That was your understanding?

A: Yes, it was.

Q: And that was your understanding not only with regard to materials you created but were created by the other writers and artists who were working under your direction?

A: Yes.

Q: And do you ever recollect, going back during that period of time anyone, any of the other writers or artists disagreeing or telling you that they didn't -- they didn't

agree with that?

A: During this period of time? No.

Q: Now, in paragraph 11, there is a reference to a Schedule A that's attached to this affidavit. And it says that, "A list of some of the characters I created or co-created for Timely, Marvel, appears on Schedule A."

And, to the best of your knowledge, is that a list of some of the characters that you either created or co-created?

A: Yes.

Q: And looking at paragraph of the affidavit, it states, I will read it into the record, "For years I," being you, "received checks from Timely and its successor that bore a legend acknowledging that the payment was for works for hire."

Do you recall -- that's a true statement; right?

A: Yes, it is.

Q: And do you recall that that was the practice at the time?

A: Yes, it was.

Q: And was that the practice not only with respect to you but with all the writers and artists?

A: Oh, yes.

Q: And that would include Mr. Kirby?

A: Yes. Everybody.

Q: Do you remember a woman who worked for Marvel back at the time by the name of Millie Shuriff?

A: There was a Millie. I think she was in the Bookkeeping Department. I never knew her last name or I don't remember it.

(Lee Exhibit 2 marked for identification.)

Q: I'm going to mark an affidavit as Lee 2. And I'm just going to ask you an a couple questions about the affidavit. I'm going to ask you -- I'm going to point you to the

paragraph 7, which is on the second page of the affidavit. And it says that, Miss Shurriff says that "all of the writing and drawing for the comic books was done on a work made for hire basis."

That was your understanding?

A: Yes.

Q: Consistent?

And then it says in paragraph 8, that "The work for hire language was affixed to each freelancer check by way of an ink stamp."

Is that consistent with your recollection?

A: Yes. Yes.

Q: Okay. That's all I have on that.

Let me go back for a second to you mentioned the fact that the writers and artists during this period of time were paid on a per page rate.

A: That's right.

Q: And were different artists and different writers paid different rates?

A: Oh, yes, according to how valuable we thought they were.

Q: And did it matter -- let's take a particular artist, oh, say Jack Kirby. Did it matter whether he -- was Mr. Kirby one who got a higher page rate?

A: He got the highest because I considered him our best artist.

Q: And with regard to his page rate, he got that page rate whether or not the actual drawings were ultimately published?

A: Oh, yes. Most of them. They were practically all published, and, yeah, he always - I made sure he got the highest rate.

Q: Now, did it matter -- he always got -- he got the highest rate, but he got the same rate, whether it was for Fantastic Four or for The Hulk or for -- in other words, he wasn't paid a different rate based on the characters?

A: As far as I can remember, he wasn't paid a different rate. I wouldn't swear to it, because there may -- I don't remember ever giving him a different rate. Let me put it that way.

Q: That's what I'm asking, your best recollection.

A: Yeah.

Q: That's your best recollection?

A: Right.

Q: Now I'm going to ask you a few questions, general questions, about kind of creation of the comic book. And perhaps nobody knows it better than you do. In general terms, and let's focus on the period 1950s and 60s, which is the relevant period in this case. What was -- I'd like you to tell us the role of the different contributors to a comic book, the writer, the artist, penciler, the inker, the colorist, the letterer.

What did each guy do, or woman, if there were any?

A: Well, somebody has to come up with the idea for the script itself. Then it has to be written. So the first thing that happens is you either get a script by the writer, or, in my case, you'd get an outline saying what the story is.

Then it would go to the penciler, who would draw the script in pencil.

Then it would go to the letterer, who would letter the dialogue balloons and the captions in ink over the pencil drawings.

Q: Mm-hmm.

A: Then it would go to the inker, who would ink the pencil drawings. So now the page had the lettering and the artwork done in ink so that it could go to the engraver, and he could photograph it or whatever he did with it.

Then in those days we would get back from the engraver some sheets of paper, eight by ten usually, that were called silver prints. And there was a silver print for each page. And they would go to the colorist, who would use some kind of aniline dye paints, and they would color the pages, which were then sent back to the engraver or the printer, I was never sure, but to tell that person how we wanted it colored when it was printed. The engraver and/or printer used those colored sheets as a guide to -- so they would know how to color the pages.

Q: Right, actually do the printing.

A: And that's -- I think that's all. There was the writer, the penciler, the letterer, the inker, the colorist. Of course we had proofreaders and sometimes we would make changes. I, as the editor, would often look over a page and say; I don't like this drawing, let's fix it, or, let's make this a long shot, not a close up. Or, you know, whatever I would do.

I didn't do that too much because it cost us money, and it wasted time, so only when it had to be done.

Q: Now, were all these people working in the same room?

A: No.

Q: How did that work?

A: No. Usually the production people were -- the people who made the paste ups.

Q: Right.

A: But very often the artists worked at home. We did a lot of shipping things around. We would -- I would talk on the phone or in person to the artist, giving -- or I would type out an outline, depending how we worked. And the artist usually went home and penciled it, bring it in to me, I would approve it or not approve it, or have what changes needed to be made.

Then I would send it to the inker. We very rarely had an inker who was really on staff. At a different address the inker would do it and ship it back to me. And if I liked it, usually it was okay, it would then go to a letterer.

Now, often the letterers were on staff, but we also had a number of letterers who worked at home. In fact, our main letterers, Sam Rosen and Artie Simick, they both worked at home, so we had to ship the artwork again. They would letter it, bring it back. We had a colorist who worked on staff, but we also had colorists who worked at home. So again, it either was done on staff or we shipped it. We were always moving and shipping things back and forth.

Q: There was no FedEx back then.

A: No FedEx. No. It was very difficult. And we had a small staff really in the office, usually one letterer who would make corrections on things. And sometimes one of

the people also did coloring. But mostly everything was done freelance and shipped around the city.

Q: Now, you mentioned all the different books involved, but you mentioned first somebody had to come up with the idea.

A: Yeah.

Q: Was that your role for the most part?

A: Pretty much. Yeah.

Q: And after you would come up with the idea, how would you communicate that idea to the writer, or in some cases you were the writer, but a different writer or the artist?

A: Well, we would meet, and I would talk about it, and I would usually have, well, often have something. I'd write out a brief outline of what the idea was.

Q: A synopsis?

A: A synopsis. Or sometimes I would just talk it with the artist. It really depended on how well I knew the artist, how well we worked together, how familiar we were with each other's style.

Q: Now, typically who came up with the ideas for stories at Marvel during the 50s and 60s?

A: Well, in the 50s, in the early 50s, we were doing a lot of odd books. And very often the writers of those odd books would come up with their own, although I did most of them.

In the 60s, the ideas for the new characters originated with me because that was my responsibility. And what would happen is the publisher, Martin Goodman, for example, with the Fantastic Four; he called me into his office one day. And he said, "I understand that

National Comics," which later changed its name to DC, "but I understand that National Comics has a book called The Justice League. And it's selling very well. I want you to come up with a team of superheroes. Let's do something like that."

So it was my responsibility to come up with such a team. And I dreamed up the Fan-

tastic Four, and I wrote a brief outline. And at that time, you know, I gave that to Jack Kirby, who did a wonderful job on it.

With The Hulk and the X-Men and Iron Man, I couldn't -- I wanted to use Jack for everything, but I couldn't because he was just one guy. So with Iron Man I gave that script to Don Heck after I came up with the idea.

With Daredevil, I gave that to Bill Everett. I think with Iron Man I still wanted Jack to do the cover, though, for it.

With Spider-Man, that was kind of an interesting thing. I thought Spider-Man would be a good strip, so I wanted Jack to do it. And I gave it to him. And I said, Jack, now you always draw these characters so heroically, but I don't want this guy to be too heroic-looking. He's kind of a nebbishy guy.

Q: Would we call him a nerd today?

A: I would say so. Yeah. Anyway, Jack, who glamorizes everything, even though he tried to nerd him up, the guy looked still a little bit too heroic for me. So I said: All right, forget it, Jack. I will give it to somebody else.

Jack didn't care. He had so much to do.

Q: Who did you give it to?

A: I gave it to Steve Ditko. His style was really more really what Spider-Man should have been. So Steve did the Spider-Man thing. Although, again, I think I had Jack sketch out a cover for it because I always had a lot of confidence in Jack's covers.

Q: When the covers were done, were they done before or after the actual work was created?

A: You know, I don't think there was a hard and fast rule for that. I really can't remember. I think you'd have had to have done some of the work first, so in doing the cover you knew what the characters looked like.

Q: And did you take particular interest in the cover?

A: Oh, that was my specialty. The covers in those days, the covers were the most important thing. Because we didn't have fans the way we do now. Today, fans go to a book store, Did the latest Fantastic Four come in yet? In those days we sold according to how attractive a book looked on the newsstand. A kid would walk in the news

stand, and whatever caught his eye he'd pick up.

So we made sure -- and this was something that my publisher Martin Goodman, he was an expert in. He taught me a lot about what to do to a cover to make it stand out, what kind of color schemes to use, and so forth. So I paid a lot of attention to covers. They were very important.

Q: And you would make changes in covers?

A: Oh, sure.

Q: And you mentioned that you thought that Kirby actually did the cover on Spider-Man. What was -- the cover that he did was based on his original drawing or was it based on what Ditko had done?

A: Oh, it would have had to have been based, I think, on what Ditko did because it would have to look like the Spider-Man.

Q: The nerdy Spider-Man?

A: I would think so. Well, as Spider-Man he didn't look nerdy. He looked nerdy as Peter Parker, yeah.

Q: Fair enough. Now, you mentioned that you would have meetings from time to time, I guess, plotting conferences. Do you recall -- and let me mark as -- we'll mark actually two documents, although they're related, an article that was written by a man by the name of Nat

Freedland in the New York Herald Tribune dated January 19th, 1966.

Do you recall the article? I'm going to show you copies of it.

Let's mark this as Lee 3.

And Lee 4 --

(Lee Exhibit 3 marked for identification.)

(Lee Exhibit 4 marked for identification.)

A: I hate that article.

Q: I'm only going to ask you about one part of it.

In the reprint there's a reference, and I will just read it into the record, that says that, "The plotting conference at the end of this article was for FF No. 55," FF would be the Fantastic Four?

A: Right.

Q: " -- No. 55 and issued just after the most prolific period of new character creation on the series." I want you to take a look at the end of this article. Either one. Yeah, that's the one.

And specifically there is a paragraph that begins right here, Mr. Lee (pointing), that starts.

Lee arrives at his plots in sort of ESP sessions with the artists. He inserts the dialogue after the picture layout comes in and then it goes on. Here he is in action at a weekly Friday morning summit meeting with Jack "King" Kirby a veteran comic book artist, a man who created many of the visions of your childhood and mine.

Then it goes on for the next several paragraphs just to describe the plotting conference. And

you can just take a quick look at that.

I want to just ask you whether, in fact, this is consistent with your recollection of how typically plotting conferences would be -- would go back in this period in the 1960s.

A: Well, pretty much, except this is written by somebody who I don't know why but he must have taken a very unfair dislike to Jack. And it is so derogatory.

It's just terrible the way he pictured Jack in this article. I can't tell you how badly I felt.

At any rate, this is the way the conferences went. Very often Jack would say more than "mm-hmm." You know, he might contribute something or he might say, "Stan, let's also do this or do that." I mean, we had conversations.

But aside from that, yes, we would get together. I would tell Jack the main idea that I wanted, and then we would talk about it, and we'd come up with something.

Q: And that was fairly typical of how a plotting conference would go?

A: Yeah, in that sense. Yeah.

Q: Now, during the period of time that you've been testifying about, did Marvel ever buy work that was created by one of the writers or freelancers on spec as opposed to having the material being part of an assignment that you would give him?

A: Not that I remember. Excuse me. You know, they may have made deals I don't know about.

Q: I'm just asking --

A: But nothing that I remember. Right.

Q: -- in your recollection --

A: Right.

Q: -- having been there all that period of time.

A: Right.

Q: Now, when you would give out an assignment, how did that work? Did you give them deadlines? How did --

A: Yeah. Every strip had a deadline, because these books had to go out every month. And it was very important that the deadline be met. Because if a book was late, we had already paid the printer for that press time.

And if the book wasn't delivered in time, we still had to pay the printer. So it was a total loss to us. So the deadlines were very important. And the artists always knew this has to be delivered by thus-and-such a date.

Q: Now, in connection with the way that artists and freelancers were paid, did they get paid whether or not a particular book or comic was successful?

A: Oh, sure. They were paid before the book went on sale. We didn't know how successful it would be. They were paid when they delivered the artwork.

Q: Did you ever have any discussions with Mr. Goodman about what his investment and his risk was in the context of being the publisher?

A: Yeah. Once in a while -- I remember there was one time some artists had wanted an increase in their page rate, and they felt they weren't getting paid enough. And Martin was in a pretty gloomy mood that day, and he said to me. You know what they don't realize? They

don't realize the risk that I'm taking. Because if the books don't sell, it costs -- I lose a lot of money. And I have no guarantee the books will sell. And we have periods for month after month after month where I'm losing money where the books don't sell. But I don't cut their rate. I don't fire them. I try to keep going as much as possible.

And he gave me this whole thing from the publisher's point of view.

Q: And did you understand that point of view?

A: Well, yeah, I could understand it from his point of view. I could understand it. Yes. Just to add to that, he said he was the fella taking all the risk.

That's the thing that he stressed.

Q: Let me go back to the covers for a second. Now, who typically designed the covers for the comic books? How did that process work?

A: I usually, almost always, would say what I wanted the cover to be. Sometimes I'd make a little thumbnail sketch. I'm no great artist, but I would just indicate where I wanted the character.

Because, as I said, we considered the covers the most important part of the book. And I was very careful about the covers. And I would say what the illustration should be, where I wanted the caption, where I wanted a blurb, how I wanted -- whether I wanted a closeup or a long shot, whether I wanted it to be an action scene or just a dramatic scene. That I spent a lot of time on that.

Q: And after you'd give direction, were the covers done before or after the pencils were complete?

A: It didn't -- it could have been either way.

Q: Either way. And did you ever reject a cover and ask him to go back and redo it?

A: Oh, sure.

Q: Now, you mentioned also the practice was to pay writers, artists, and the others inkers, and so forth on a per page basis. And they had different rates and so forth.

During the period of time that you were there, were writers or artists ever -- did they ever get

royalties from Marvel for the work they did or was it just a per page?

A: While I was there I don't remember any royalties.

MR. LIEBERMAN: Is this a good time for a break? We've been going for about an hour.

MR. QUINN: I think it's a very good time.

THE VIDEOGRAPHER: Off video at 10:29a.m.

(Recess.)

THE VIDEOGRAPHER: Back on video at 10:38a.m.

MR. QUINN: We were discussing a number of different items generally about the process that you oversaw as editor back in the 50s and 60s. And now I want to focus specifically on issues relating to Jack Kirby. You're aware that this is a dispute with the Kirby heirs?

A: (Nods head up and down.)

Q: You've got to say yes on the record.

A: Yes.

Q: When did you first meet Jack Kirby?

A: Well, the first day that I came to work at Timely Comics, which was either '39 or '40.

Q: And over the course of the years, what was your relationship with Mr. Kirby?

A: Well, on my part it was very cordial. I was a big fan of his from the beginning.

Q: Now I'm going to focus on the period of time at issue in the 50s, and late 50s and early 60s. At what point in time did Mr. Kirby come back to Marvel or Timely?

A: I don't remember the year, but there was a time that he left, and he did some work for DC Comics, and then he came back. Yes.

Q: And by the late 1950s he had returned?

A: The late 1950s -- 60s.

Q: Let me rephrase the question. By 1960, he was back working at Marvel, in that

general area?

A: Maybe he left two times. Maybe he left in the 50s, and that's what you're referring to. He was back by '60.

Q: Right.

A: That may be. Because I know there was a time later in the 60s that he left and he came back, I think.

Q: Now focusing on the period when he was at Marvel in the 60s, what was Jack Kirby's role at Marvel?

A: The same as it had always -- wait a minute. Did you say in the 50s?

Q: No, focusing on the 60s.

A: As far as I know, the same as it had always been. He was our top artist, and I gave him what I thought were our most important projects.

Q: And what was -- what were his job responsibilities as an artist?

A: Well, to draw the strip as well and as excited -- excitingly and grippingly as possible, and draw it in such a way that the readers would want to see more, more, more.

Q: And who had the right to direct and supervise Mr. Kirby's work?

A: That was me.

Q: And who had the ability to edit and control Kirby's work?

A: That was my job.

Q: And who decided which comic books and characters Kirby would draw?

A: I did.

Q: And who gave him those assignments?

A: I did.

Q: As best you can recall, did Mr. Kirby ever submit work to you or to Marvel that he had done on spec?

A: Not that I remember.

Q: And you mentioned the situation with taking him off the Spider-Man book. In addition to that, were there other instances where you did edit Kirby's work?

A: Well, I edited everybody's work. I don't remember taking him off anything else.

Q: Do you remember Mr. Kirby ever refusing to make any of the edits or changes that you made?

A: As a matter of fact, no. Jack was really great to work with.

Q: To your knowledge, during this period in the 1960s, was Kirby working only for Marvel or was he doing work for other comic books?

A: I thought he was working just for us.

Q: Now, typically, what was the work product after you had given Kirby an assignment? What was the work product that you would receive back from Kirby?

A: I would receive back usually, if the book was pages long, I'd receive back beautifully drawn pages in pencil which told a story.

Q: And did Mr. Kirby ever suggest dialogue?

A: Not orally, but what he would do, when I would give Jack a rough idea for what the story should be, and he went home and he drew it in his own way, laying it out the way he thought it would be best, he would put in the borders, the margins of the pages, he would put little notes letting -- so I would understand what he was getting at with each drawing, and he would sometimes put dialogue suggestions also.

(Lee Exhibit 5 marked for identification.)

Q: Let me show you what I'm going to mark as I believe it's Lee 5, a magazine entitled "Jack Kirby Collection 54." And I just want to point you to some portions of that.

THE REPORTER: Do you want me to put the sticker actually on it?

MR. QUINN: Yeah, you can put it on.

MR. TOBEROFF: Can I have a copy, please?

MR. QUINN: I'm sorry.

MR. TOBEROFF: Thank you.

MR. QUINN: We tagged a particular section that has a little blue tag on it. You can open to that. See the little --

A: Oh, yes.

Q: And it's page 59 of this exhibit. And on the top it talks about being fantastic penciling and the size. It says, "What would a Lee and Kirby issue be without the Fantastic Four being heavily represented?" And then it has a representation, I guess, of the penciling or the drawing done by Kirby in the first instance.

Do you recognize the notes around the pages?

A: Well, that's Jack's handwriting. That's the way he wrote them. Yes.

Q: And could you tell us, for example, in this instance I see that there's a dialogue that's actually in the different blocks. Tell us who did that dialogue. How was the process done?

A: Well, I wrote the dialogue and the captions, but Jack would give me notes. For example, in panel of that page, the next to the last panel --

Q: Right.

A: -- Jack wrote what he suggested the dialogue might be. "I will rule. My years underground will end." That was to let me know what he felt the fellow should be doing or saying.

So I wrote, "My conquest will be complete. I, the Mole Man, banished from my fellow men half a life time ago, will return at last as Master of the Earth."

Very often I would write dialogue to fill up spaces. In other words, I also indicated where the dialogue balloons and the captions should go on the artwork. And I might not have written so much if he had made the face bigger, but inasmuch as there was that space on the upper right-hand part of the page, I put in more dialogue to sort of dress up the -- balance the panel with picture and dialogue. That was something else I had mentioned but I concentrated very much on. For example, in the panel above it, that panel was an interesting panel, and I didn't want to -- I only used three lines of caption. I didn't want to crowd that with copy.

And the same with the first panel. There's so much going on, that I only had a two-

line caption that only went part way across, because I wanted the reader to enjoy looking at Jack's artwork with no interference.

Q: And who was it who decided where those -- where the dialogue would go?

A: I did. I always made the indications for the letter -- before giving my strips to a letterer, I always indicated in pencil after I typed out the dialogue where the dialogue should go in the panel. And the sound effects, also.

Q: And this was the typical way that you would work with Mr. Kirby?

A: With all the artists. Yeah.

Q: And who had the final say with regard to what was going to be written in those panels?

A: Well, I was the editor. I did.

Q: So just looking at some of the other panels, who -- let's go to the next page up on top in the second panel.

A: Mm-hmm.

Q: Read me what Kirby had written in.

A: Let me see if I can make it out. "As it leaves his hands, the staff's power blows and rocks" -- something -- back." I can't make out the word.

Q: Right. And what did you substitute for this?

A: Well, I thought it was so self-explanatory, and design wise I felt a big sound effect would be good.

So I lettered in the word "batoom" (phonetic) for the letterer. I did it in pencil so the letterer would follow it, and I tried to make it part of the design of the panel.

Q: Was that something that you typically did?

Let's look at another, the next page.

A: The next page?

Q: I'm sorry, two pages over which would be 62. I see in the third panel --

A: Yeah.

Q: -- there is Shaboom.

A: Right.

Q: Is that work that you did?

A: Absolutely. In fact, we used to have fun with it. Sometimes I remember there was one story where I did a sound effect like that with three Os in it, and on the bottom I wrote a little caption saying something like, "As every Marvel fan would know, the third O is silent." The kids used to get kicks out of those kind of things. I didn't do it in this one because this was too dramatic.

(Lee Exhibit 6 marked for identification.)

Q: Let me also mark as -- this would be Lee 6, a document that the cover says "Fantastic Four."

A: Mm-hmm.

Q: August. And it says 15 cents. Those were the days. Back in the day.

A: Started out at a dime.

Q: And looking we've also clipped one of the panels. Actually the panel it's the same as in the drawing. There's a -- should be a blue thing there. Yeah.

A: Oh, the blue thing. Sorry.

Q: Go to that page. And then take a look at -- compare. Is that the same page that in Lee in its final version that is in --

A: Oh, it seems to be. Yes.

Q: With the same dialogue that you wrote in?

A: Mm-hmm.

Q: So this would be -- this --

A: Yeah.

Q: Stan --

A: This is the way it looked printed.

Q: This is the way it came out to the public.

A: Right.

Q: That now includes the work of the inkers and the colorists and all the other folks.

A: And the letterer.

Q: And the letterer. Now, as part of the way you worked with Mr. Kirby and the assignments you gave, did you ever ask Mr. Kirby to create new characters? Or did he ever create new characters in the context of the work and the assignment you gave him?

A: Well, he, in the context of the work, I would give him the outline for the story. I might add, that as we went on, and we had been working together for years, the outlines I gave him were skimpier and skimpier. I might say something like: In this story let's have Dr. Doom kidnap Sue Storm, and the Fantastic Four has to go out and rescue them. And in the end, Dr. doom does this and that. And that might have been all I would tell him for a 20-page story.

Q: Dr. Doom --

A: Dr. Doom being the villain.

Q: The villain.

A: And Jack would just put in all the details and everything. And then it was -- I enjoyed that. It was like doing a crossword puzzle. I get the panels back, and I have to put in the dialogue and make it all tie together.

So we worked well together that way for years, but, I'm sorry, I forgot what your question was.

Q: No, no, no. Whether during that period of time was it part of his job to create new characters from time to time?

A: Oh, that's why I mentioned.

MR. TOBEROFF: Assumes facts. Go ahead.

Q: Go ahead.

A: That's why I mentioned that, because I might give him a very skimpy outline like let Dr. Doom kidnap Sue. Now, when he drew the strip, he might introduce a lot of characters that he came up with in the story. He might have decide to have Dr. Doom send some giant robot to get Sue Storm, and he would make up the robot. Or there might be some other people. Sure, Jack would often introduce a lot of new characters in the stories.

Q: And that was part of what his assignment was?

A: Yeah.

Q: And did other artists do the same thing?

A: Yes.

Q: To your recollection, were there any characters that Kirby had created before he was working with you or anyone at Marvel that he brought to Marvel and then were then published by Marvel?

A: No, I don't believe so. I don't recall any. Oh, wait a minute. Wait a minute. Captain America, for God's sake. He and Joe Simon had created Captain America.

Q: Right.

A: Now, by the time in the 60s, Jack came to work for us, we weren't -- there was no more Captain America. We weren't publishing it because Martin Goodman thought it was just a World War II character and people wouldn't be interested in it anymore.

I always loved the character, so I decided to bring it back. And I tried to write a story where he had been frozen in a glacier for years, and they found him and he came back to life, and so forth. And I tried to give him some personality where he always felt -- he was an anachronism. He was living in our day, but yet he had the values of or 30 years ago. And I tried to make him a little bit interesting.

And Jack would draw him. And Jack just drew him so beautifully, and the stories worked out so well that he became part of the Marvel superhero characters, the one that I did not create. Yeah. And he's a great character, and they'll be making movies of him soon.

Q: Other than Captain America, you can't remember any --

A: No, I don't remember any others.

Q: To your knowledge, did Mr. Kirby ever shop a character around to other publishers before bringing it to Marvel?

A: Not that I know of.

Q: Did you ever have any discussions with Mr. Kirby as to who owned the rights to particular characters?

A: No. Again, not that I can recall.

Q: Was it your understanding that Mr. Kirby was aware of Marvel's policy that everything was work for hire?

A: I took it for granted. We had never discussed it.

MR. TOBEROFF: Did you hear my objection?

THE REPORTER: No, I didn't. Sorry.

MR. TOBEROFF: Leading.

THE REPORTER: Thank you.

Q: To your knowledge, did Mr. Kirby ever try to use a storyline or a character that he and you created together for Marvel when he left Marvel and went to DC or someplace else?

A: Did he take any stories we had done and use -- not that I know of.

Q: Now, we talked generally about how the freelancers were paid. How was Mr. Kirby paid?

A: When he brought in -- like everybody else. When he'd bring in his artwork, he'd hand in a voucher. We had pre -- you know, pre-prepared voucher forms. And I would, of course, okay the voucher, and it would go to the Bookkeeping Department.

Q: Based on the number of pages?

A: Yeah, so much per page.

Q: To your knowledge, did Mr. Kirby ever receive any royalties from Marvel?

A: Did he receive royalties?

Q: Royalties from Marvel.

A: I don't know.

Q: Now, you indicated that Kirby had left and come back to Marvel at several different periods of time. To your knowledge, when Mr. Kirby was working for other comic book publishers, did he do some of his own writing?

A: I think so. I didn't really follow it, but I think when he worked for DC that he may have written some of the characters he created. But I don't know for sure.

Q: Do you know whether after he left Marvel he had -- his characters had the same kind of success that the characters that came about during the period of time he was at Marvel?

A: Well, I don't think they became as successful as the Marvel heroes, no.

Q: I want to focus specifically on the creation of a number of the specific characters that -- we talked about several, but I want to go into them in a little bit more detail.

And let's start with the Fantastic Four. You actually referenced them earlier. Tell me to the best you can recall, how did the idea for the Fantastic Four come about, and who they were, and what was the back story with regard to the Fantastic Four.

A: Well, as I mentioned, Martin Goodman asked me to create a group of heroes because he found out that National Comics had a group that was selling well. So I went home, and I thought about it, and I -- I wanted to make these different than the average comic book heroes.

I didn't want them to have a double -- a secret identity. And I wanted to make it as realistic as

possible. Instead of them living in Gotham City or Metropolis, I felt I will have them live in New York City. And instead of the obligatory teenager Johnny Storm driving a whiz bang V8, he would drive a Chevy Corvette. I wanted everything real, and I wanted their relationship to be real. Instead of a girl who didn't know that the hero was really a superhero, not only did she know who he was, but they were engaged to be married, and she also had a superpower.

So, you know, things like that. And I thought I would try that. So I wrote up a very brief synopsis about that, and naturally I called Jack, because he was our best artist, and I asked him if he would do it. He seemed to like the idea. Took the synopsis, and

he drew the story and put in his own touches, which were brilliant.

And it worked out beautifully. Books sold, and that was the start of the Marvel success, you might say.

Q: And tell me or tell us all your thinking in the creating the four different characters, Mr. Fantastic, the Invisible Woman, the Human Torch, and The Thing.

MR. TOBEROFF: Assumes facts.

A: I'm sorry?

Q: You can answer.

A: Tell you what?

Q: Tell us what was your thinking with regard to or the idea behind these specific four characters.

A: Well, I wanted them to be a team, but I wanted them to act like real people. So they didn't always get along well. I wanted one of them to be -- we called him The Thing, to be kind of a very powerful ugly guy who would be pathetic because -- they all got their superpowers by being in a spaceship that was hit by cosmic rays. And Mr. Fantastic got the ability to stretch his limbs. The girl Sue Storm had the ability to become invisible and surround herself with the force field. And the boy Johnny Storm, her brother, was able to burst into flame and fly.

I took that from an old Marvel book, one of Timely Comics' first books called The Human Torch. I always loved that character who had been an android, a robot or something. But I felt I'm going to give Johnny Storm that power. He can fly and burst into flame.

So we had a guy who can stretch, a girl who could be invisible, a man who was an ugly monster. And again, to go against type, I thought I'd make the ugly monster kind of a funny guy. He's pathetic, but he's also the comedy relief. And he was always arguing and fighting with The Human Torch, who was always trying to give him a hot foot. And he was always trying to grab him and throttle him.

They all loved each other, but they never got along well. The more they fought amongst themselves, the more the readers loved it. And that was the way I envisioned them.

(Lee Exhibit 7 marked for identification.)

Q: Now I'm going to mark as Lee I believe it's 7, the next exhibit.

A: There's no little blue thing.

Q: I'll get you there. It's a document that's actually a magazine entitled "Alter Ego, the Comic Book Artist Collection."

And are you familiar with the Alter Ego?

A: Oh, yes. It's a well known fanzine.

Q: And is a man by the name of Roy Thomas --

A: Mm-hmm.

Q: -- that is I guess involved in publishing the Alter Ego?

A: Right.

Q: Tell us who Mr. Thomas is.

A: Well, Roy Thomas is somebody that I met years ago. He came up to the office for a job as a writer. And unlike a lot of comic book writers, he had been an English teacher in school. Even though he was a fan, that sort of set him a little above the others. And I hired him, and he began to write a lot of our stories. And then when I left to become the publisher, I appointed him as Editor-in-Chief to replace me.

Q: And that would have been somewhere around 1968?

A: I guess.

Q: And let me call your attention to an article that starts on page 32 of Stan Lee 7. And specifically this is an article entitled "A Fantastic First," authored by Roy Thomas.

And are you familiar with this article?

A: I read it years ago.

Q: And specifically it's a discussion about the creation of the Fantastic Four. And do you recall when you read it did you see anything that was wrong or incorrect in the article?

A: I guess not. No.

Q: There's a recreation of a note in the article that reads, and it says, "Hi Roy, I found the FF No. 1 synopsis."

A: Oh, he must have been asking me if I could ever get it for him.

Q: And then you go on. And that's your handwritten note? That's your signature?

A: Oh, yes.

Q: And you recall generally sending him this note?

A: Yes.

Q: And it goes on to say, "Will mail it off to you on Monday. It's not clear enough to fax." Then it says, "Sorry to say I have no other synopses on file. Never thought to save any. To this day I will never know what made me save FF No. synopsis. I certainly never thought anyone would care about it later on."

And then across on the other page there is a document, a recreation of a document that says, "Synopsis the Fantastic Four July '61 No. 1."

A: Right.

Q: And then it says, Story No. 1, Introduction, "Meet the Fantastic Four."

Is that the synopsis that you wrote back in 1961?

A: This is the original synopsis that I wrote and I gave it to Jack. And of course, after that we discussed it, and we embellished it, and we made little changes. But this was the beginning of it. Yeah.

Q: You mentioned in your note to Mr. Thomas that you hadn't saved others because you didn't think anyone would ever -- did you create other synopses from time to time?

A: Oh, yeah.

Q: In the article on the first page, and I will just read it to you, it says, Mr. Thomas writes,

"Actually, this wasn't the first early 60s synopsis of Stan's I'd seen."

And it says, "See later part of the article. And when I had gone to work for him in July 1965, I had learned that he was increasingly dispensing with written synopses with Marvel artists, often working merely from brief conversations in person or over the phone."

A: That's right.

Q: And is he referring to what you previously testified how the Marvel method came about?

A: Yes. And you see also these artists were so good, and I had worked with them for so long, that I knew what I could expect from them. And I think they knew what I expected, and what I meant when I would give them a few words explaining a story. It's like two comedians who had been a team on stage for a long time, and they could anticipate what each other was going to say. That I couldn't have done this with an artist I just met, you know, that I had never worked with. But I had worked with these people for so long. We knew each other, and we could work where I'd give them a few words, and they could go ahead and come up with the written drawn story.

Q: They would know what you wanted?

A: Right. And if they did anything a little different, it was usually an improvement, and I would change the dialogue and to suit what they had done.

MR. TOBEROFF: I'm sorry. Since I don't have the entire exhibit in front of me, just the article, I'd like to know the date of the magazine this appeared in and the issue number.

MR. QUINN: Yeah. Hold on one second. I can tell you that, I think. It's --

MR. TOBEROFF: If I could just look at Stan's.

MR. QUINN: I will tell you. It's Volume 2 No. 2, the Summer of 1998.

MR. TOBEROFF: Thanks.

MR. QUINN: Now looking at let's turn the page over to page 34. And I'm going to read a portion of the article that's quoting you. Mr. Thomas writes, "In answer to my earlier query, Stan sent a few comments along with the synopsis." And then he

quotes you, "Incidentally, I

didn't discuss it with Jack first," referring to the synopsis. "I wrote it first after telling Jack it was for him because I knew he was the best guy to draw it." And you go on, "PS, as you are probably aware, the biggest change that was made after the synopsis was written was I decided to make the thing more sympathetic than originally intended."

A: Right.

Q: After giving -- "After seeing the way Jack drew him, I felt it was too obvious for such a ugly

monstrous looking guy to act in a typically monstrous, menacing way."

Do you recall sending that note to Mr. Thomas?

A: Yes.

Q: And what were you referring to?

A: Well, I was referring to what I mentioned before. I would very often give a writer a synopsis or an oral synopsis what I wanted, and then later when the story was penciled, I would look at it and say, well, maybe we should change this or maybe make this character a little more that way. And as I mentioned with The Thing, when I saw the way he looked, I thought it would be dull. We got a guy who looks like a monster. If he just acts like a monster, a dumb monster, it would be more interesting to give him a real personality. And actually the guy -- some of you were too young to know him, but I thought of Jimmy Durante, an old comedian.

Q: Sadly, I'm not too young to know him.

A: I tried to have the thing talk a little like Jimmy Durante, have that kind of an explosive personality. So...

Q: The article on the next page, there's several numbered paragraphs. And No. 5 talks about, and I will just read it into the record:

Re the idea of Sue remaining permanently invisible and having to wear a humanoid face mask to be seen, well, Stan's note at the end of that paragraph indicates that he was already rethinking that bit. He asked Jack to talk with him about it because "maybe we'll change this gimmick somewhat." Since the writer, editor, and artist

probably discussed this point before Jack started drawing any number of other changes, including the notion of starting with a multi-page action sequence may have been suggested, then, as well by either man. In any event, Sue gained control of her invisibility almost at once.

A: That's right.

Q: What were you referring to there?

A: Well, I think either Jack or I or both of us, I don't know, must have thought at some point that she'd always be invisible, and she'd have to wear a mask or something so people would see her.

Q: Right.

A: And whether it was my idea or not, as I thought about it, I thought, that's a lousy idea. So we decided to change it where she could look like a normal person and make herself invisible at will or make herself normal at will.

Q: And who in this process had the ultimate decision to decide how that was going to come about?

A: Well, I did. I was the editor.

Q: And turning over to the next page of the article, up on the actually the crossover page 37, there's another document that's recreated that says, Synopsis for Fantastic -- Synopsis for Fantastic Four No.8 "Prisoners of Puppetmaster."

Do you recognize that as another of the synopses you created in connection with Fantastic Four?

A: I hadn't read that for so many years, but, yeah, that seems to be mine. I didn't even know this was in here. Wow. Yeah. See, instead of telling him page by page, I would say, Devote five pages to this, five pages to that, and three pages to that. Yeah.

Q: That was typical of how you were working utilizing the Marvel method?

A: Yeah. Sometimes I wouldn't even be this specific. And I wouldn't have cared if Jack devoted, let's say, six pages to this and he changed that to three pages. Just so he got the idea what I had this mind. But he was good at making his own changes, and very often he'd improve them. But, yeah, this is mine.

Q: Let's go to another character, The Silver Surfer.

A: Oh, yeah.

Q: Could you tell us how the Silver Surfer came about?

A: Right. I wanted to have a villain called Galactus. We had so many villains who were so powerful. I was looking for somebody who would be more powerful than any. So I figured somebody who is a demigod who rides around in space and destroys planets.

I told Jack about it and told him how I wanted the story to go generally. And Jack went home, and he drew it. And he drew a wonderful version. But when I looked at the artwork, I saw there was some nutty looking naked guy on a flying surfboard.

And I said, "Who is this?" And he said -- well, I don't remember whether he called him the surfer or not. He may have called him the surfer. But he said, "I thought that anybody as powerful as Galactus who could destroy planets should have somebody who goes ahead of him, a herald who finds the planets for him. And I thought it would be good to have that guy on a flying surfboard."

I said, "That's wonderful." I loved it. And I decided to call him The Silver Surfer, which I thought sounded dramatic.

But that was all. He was supposed to be a herald to find Galactus his planets. But the way Jack drew him, he looked so noble and so interesting that I said, "Jack, you know, we ought to really use this guy. I like him."

And I tried to write his copy so that he was very philosophical, and he was always commenting about the state of the world and: Don't you human beings realize you live in a paradise. Why don't you appreciate it? Why do you fight each other and hate each other? And I had him talking like that all the time. And the college kids started to love him. And whenever I would lecture at a college, and there was a question-and-answers period, it was inevitably the Silver Surfer that they would talk about the most. So I was very happy with him.

But that's how it happened accidentally. I mean, I had nothing -- I didn't think of him. Jack -- it was one of the characters Jack tossed into the strip. And he drew him so beautifully that I felt we have to make him an important character.

Q: And this is -- you talked about it before that artists were expected as part of their job to populate the story with characters?

MR. TOBEROFF: Misstates testimony.

Q: You can answer.

A: Pardon me?

Q: You can answer.

A: Oh. You see, if there's a story where the hero goes, let's say, to a nightclub, so I would say or whoever the writer is would say the hero goes to a nightclub, and he talks to this person, and then there's a gun fight. Well, when the artist draws it, the artist has to draw other people in the nightclub. So the artist is always creating new characters. I mean, the artist might decide to have the character standing at the bar and draw a sexy-looking bartender, a female or an interesting looking bartender.

The artist in every strip always creates new characters to flesh out the strip and to make the

characters living in the real world. Sure.

Q: Who is it up to? Who had the last word as to whether or not a particular character would make it into the final publication?

A: Well, I guess I did, and my publisher Martin, who might also look at a character and say, I like him, let's see more of him, although he didn't do it that often.

Q: Did he ever say I didn't like --

A: Yeah.

Q: -- a particular character?

A: Yeah, mostly in Westerns. He was big on our Western books. And sometimes he wouldn't like the way a character was drawn.

Q: Let's talk a little bit about the Spider-Man. How did the idea for Spider-Man come about?

A: Again, I was looking for -- Martin said, "We're doing pretty good. Let's get some more characters." So I was trying to think of something different. And I have always hated teenage sidekicks, so I felt it would be fun to do a teenager who isn't a sidekick but who is the real hero. So that part was easy.

But then you had to -- the toughest thing is dreaming up a superpower. So I thought, What superpower can I give him? And it finally occurred to me, a guy who could stick to walls like an insect, crawl on a wall and stick to a ceiling. I didn't recall ever having seen any character like that before. So I thought that's what I'll do. I'm going to get a teenager who can crawl on walls.

But then the second most important thing is a title. Titles are very -- the names of the characters are very important. So I went down the list. Could I call him Mosquito Man? Insect Man? Fly Man? And I got to Spider-Man. It sounded dramatic. And I remember I had read a pulp magazine when I was a kid called Spider-Man.

The guy didn't have a superpower. He was just a guy who went around fighting bad guys. But I thought Spider-Man sounds great.

And again, I went to Jack. I think I told you this before, but --

Q: It's okay.

A: I went to Jack and asked him to draw it, and he did, but he didn't make the teenager look as wimpy or as nerdy as I thought he should. And I realize that really isn't Jack's style. Jack mostly draws glamorous heroic Captain America type. Not that he couldn't have but he would have had to force himself. So I figured I will get somebody that it comes easy to. And nobody, Jack nor I nor anybody, thought that Spider-Man was going to be a big strip, so it didn't matter. So I said, "Forget it, Jack. I will give it to someone else." He said okay and he went back to Fantastic Four or Thor or whatever he was drawing, and I gave it to Steve Ditko. And Steve had that kind of awkward feeling.

It was just right for Spider-Man, so I gave it to Steve. And that's what happened.

Q: Now, did you discuss the idea that you had for Spider-Man with Mr. Goodman?

A: Oh, yeah. He hated it.

Q: Tell us about that.

A: Want that story?

Q: Yeah. Sure.

A: Hope I'm not boring you all.

Q: Not at all.

A: I had the idea for Spider-Man, so then I went in, and I told him. I said I want him to be a teenager.

I want him to be called Spider-Man. And I want him to have a lot of personal -- I didn't mention that I wanted him to have a lot of personal problems because I thought that would make him very empathetic to the reader, teenage readers.

Q: And today is what we call them issues. He'd have issues.

A: Pardon me?

Q: He'd have issues.

A: Right.

Q: Personal issues.

A: That's right. And I told that to Martin Goodman. And Martin said: Stan, you're losing it. That's the worst idea I ever heard. He said, First of all, you can't call a hero Spider-Man. People hate spiders. Secondly, you can't make him a teenager. Teenagers can just be sidekicks. And finally, problems? Don't you know what a superhero is? They don't have problems. They're superheroes.

So I had a feeling I hadn't hit pay dirt with that one as far as Martin was concerned, but I always liked the idea. So sometime later we had a magazine we were going to drop. It was called Amazing Fantasy. Strangely enough, Steve Ditko had drawn all the stories in that one, now that I remember. Anyway, it wasn't selling well, and we were going to drop it.

Now, when you drop a magazine, nobody cares what you put in the last issue because you're dropping it anyway. So just to get it out of my system, that's when I asked Jack to draw it. Then I asked Steve to draw it.

And we did a little, I don't know, 10 or 12 page story. And we threw it in Amazing Fantasy in the last issue. And just for fun, I put him on the cover.

And the book sold fantastically. So a couple months later when the sales figures were in, Martin came to me and he said, "Hey Stan, you remember that Spider-Man idea of yours that we both liked so much? Why don't we make a series of it." And I will never forget that.

THE VIDEOGRAPHER: We need to pause in about five minutes to change tapes.

MR. QUINN: Actually, let's pause now because we're going to go to another subject.

THE VIDEOGRAPHER: This marks the end of DVD No. 1. Off video at 11:25a.m.

(Recess.)

THE VIDEOGRAPHER: Back on video at 11:36a.m.

This marks the beginning of DVD No. 2, the video deposition of Stan Lee.

MR. QUINN: Just for the record, I just want to note that Marvel is going to designate the deposition transcript confidential pursuant to the protective order when it's signed. I guess we're operating now under an agreement.

MR. TOBEROFF: Well, we don't have a protective order in place, and we're not accepting the protective order submitted by Marvel. We proposed a protective order, the same one we had in the Superman case, but I never heard back from anybody about it. That was nearly a week ago.

MR. QUINN: I'm sure we'll get back to you shortly Marc. I promise.

MR. TOBEROFF: Okay.

MR. QUINN: In any event, let me go back to something you testified about a little while ago when we were talking about the process of where artists sometimes create characters as part of the story. And you mentioned, for example, the possibility of an artist creating a lady bartender.

Whose job or whose responsibility, if it was decided that this was really an interesting character, who would be the one who would make the decision to take that character and make him or her a separate character for a new comic?

A: Well, either whoever is the Editor or the Publisher.

Q: So at this period of time it would be you or Mr. Goodman?

A: At that period it would have been me or Martin.

Q: So, for example, with regard to the Silver Surfer, who decided to essentially take the Silver Surfer and make him a separate character?

A: Oh. Me.

Q: And why?

A: Why?

Q: Why did you decide to do that?

A: Because I just thought he was such an interesting looking and such a unique character. We had never seen a guy on a flying surfboard who could travel from planet to planet.

Q: And it was you who gave him the name Silver Surfer?

A: Yes.

Q: Okay. Let's go now to the Incredible Hulk.

And could you tell us how The Incredible Hulk came about? What was your idea for him?

A: Well, same thing. I was trying to -- it was my job to come up with new characters and to expand the line as much as I could. So I was trying to think again what can I do that's different. I liked the thing very much, and I thought, what if I get somebody who is a real monster? And I remembered I had always in the old movie Frankenstein with Boris Karloff I had always thought that that monster was the good guy because he didn't want to hurt anybody, but those idiots with torches who were always chasing him up and down the hills.

Q: He was a misunderstood monster.

A: A mis -- you said it better than I could have. So I thought it would be fun to get a monster who is really good but nobody knows it, and they fight him. But then the more I thought about it, I figured it could be dull after awhile just having people chasing a monster. And I remember Dr. Jekyll and Mr. Hyde. I thought, why not treat him like Jekyll and Hyde? He's really a normal man who can't help turning into a monster, and it would make a very interesting story if when he needs his monstrous strength the most, the poor guy turns back into a normal man. I could get a lot of story complications. So I thought that would be good. I needed a name. Years ago I remember there was a comic book called The Heap, H-E-A-P. I don't

remember even what he was, but I always thought that was some real crazy name.

And somehow or other I thought I will call him The Hulk. It's a little like The Heap, and it has that same feeling. But I love adjectives like the Fantastic Four, the Uncanny so-and-so. So I decided I'll call him The Incredible Hulk. And that's what happened.

Q: And how come The Hulk is green?

A: That's a long story. When I did the Fantastic Four, we started getting a lot of fan mail. And the fan -- remember, I told you I didn't want them to have costumes. And the fan mail said, We love the book. It's great. Oh, it's the best new thing we've seen. But if you don't give them costumes, we'll never buy another issue. And I realize there's something unique about the

comic book reader. They love -- the superhero fan. They love costumes.

Well, I couldn't figure out a way to give a monster a costume. I couldn't see a monster, The Hulk, walking into a costume store or making one for himself.

So I figured I'll do the next best thing. I'll give him a different skin color. That will always look like a costume.

You may not know this, but originally I made him gray. I thought that a gray skin would look spooky and scary and dramatic. But when the book was published, the printer apparently had a problem with the color gray. On one page he was light gray. On one page dark gray. On one page black. On one page almost white. I said, This will never do. So I decided on another color. See, you can do that when you're a comic book editor. You can do anything.

So I will change the color of his skin. So I looked around for a color that wasn't being used. I

couldn't think of any green hero. I said, I will make him green. And it turned out to be a good choice, because I was able to come up with little sayings like, The Jolly Green Giant, or the Green Goliath, and so forth. And that's how it happened. I could have thought of pink or blue or any other color.

Q: Now, after you came up with the character, who did you ask to draw the character?

A: My best guy, Jack Kirby.

Q: And do you remember giving Kirby directions as to what you wanted with regard to what he was to draw?

A: I remember the first thing I said to him. I said, Jack, you're going to think I'm crazy, but I want you to draw a sympathetic monster. And he came up with The Hulk.

Q: And did you, as part of that direction, give him a back story and a story line?

A: Oh, yeah. We had to figure out how The Hulk would be -- how he came to be The Hulk. So I decided he's a scientist named Bruce Banner. And I'm not very scientific. All I know are the names of things. I don't really know how they work or anything. But I had used cosmic rays for the Fantastic Four to get them their powers. So I heard the expression "gamma ray" somewhere.

So I said let's let Bruce Banner be subjected to a gamma ray, and that turns him into The Hulk. But it had to be in a heroic way. So I said let's get a teenage -- they're doing a test for a new kind of gamma ray bomb somewhere.

The military is doing that. And some idiot teenager is riding his bike past the no trespassing sign onto the test area. And Bruce Banner in his cubicle sees the kid, and he runs out to save the kid, say, "Get out of here. There's going to be a gamma ray explosion."

But Bruce Banner had a rival scientist who was jealous of him, and when the scientist sees Bruce Banner run out, he says, "Quick. Start the explosion." And the gamma ray explodes, and Bruce throws himself on top of the kid to save the kid, and he gets subjected to the gamma ray. That's how he becomes the Hulk, and that's how we know he's really a hero at heart.

Q: And in creating and then coming up with the back story, did you --

MR. TOBEROFF: Assumes facts not in evidence.

Q: -- as The Hulk progressed, did you follow the same process that you previously testified to in terms of how you directed and edited The Hulk stories?

A: Yeah. Well, I told Jack essentially what I told you. And he just drew it any way, you know, the best way he could. And it turned out great.

Q: Let's talk a little -- let's talk about Iron Man. Tell us about how Iron Man came about, how he was created, the back story with regard to Iron Man.

A: I will try to make it shorter. It was the same type of thing. I was looking for somebody new. And I thought -- I don't know why I thought it, somebody in a suit of ar-

mor. And what if it was iron armor. He would be so powerful. So for some reason I have always been fascinated by Howard Hughes. I thought I would get a hero like Howard Hughes.

He's an inventor. He's a multimillionaire.

He's good looking. He likes the women. And but I got to make something tragic about him. And then it occurred to me if he -- somehow when he got his iron armor -- it's a long story -- but he gets into a fight, and he gets injured in his chest. And his heart is injured, and he has to wear this little thing that runs the iron armor.

He has to wear that on his chest because it also keeps his heart beating. And that would make him a tragic figure as well as the most powerful guy. So I thought the readers would like him even more with that little bit added to it.

And that was it. Then again -- oh, but wait a minute. This one wasn't Jack. I called Don Heck, and I asked Don Heck because I think Jack was busy with something else. That must have been what it was.

Q: Don Heck is another artist?

A: He's another artist that we had who was pretty good. And he drew the first Iron Man. I think I might have given the cover to Jack to do. I don't remember who did the cover. I think it might have been Jack.

Q: And in coming up with the back story, did you include a love interest?

A: Oh, yeah. I forgot. I made up a name called -- a girl who worked for the millionaire. I figured he has -- I wanted him to be a playboy, so he has this gorgeous assistant secretary named Pepper Pots. And he's in love with her, and she's in love with him, but he won't admit he's in love with her because he figures he could die any minute with his bad heart. And he loves her too much to make her a widow, and so he never admits to her how he feels about her, which again is a little touch of pathos for the series.

He also has a friend named Happy Hogan, and it goes on and on.

Q: Now, in addition to Don Heck, did your brother Larry Lieber have a role in Iron Man?

A: Oh, yeah. I came up with the idea, but when the script was -- when the strip was drawn, I didn't have time to put in the copy. So I asked my brother Larry to write it.

Q: And this happened on other occasions where --

A: Yeah. There were times when I would ask Larry to write something. Mm-hmm.

Q: Now let's talk --

A: Excuse me one second. I may have asked Larry to write it in script form and then give it to Don to draw. I'm not sure. I may have done that.

Q: Let's talk next about Thor.

A: Mm-hmm.

Q: And how Thor was created and what was your idea behind Thor.

A: Same thing. I was looking for something different and bigger than anything else. And I figured what could be bigger than a god? Well, people were pretty much into the Roman and the Greek gods by then, and I thought the Norse gods might be good. And I liked the sound of the name Thor and Asgaard and the Twilight of the Gods' Ragnarok and all of that.

And Jack was very much into that, more so than me. So when I told Jack about that, he was really thrilled. And we got together, and we did Thor the same way.

Q: And what was the idea behind Thor? What was his deal?

A: I wanted him to be --

MR. TOBEROFF: Excuse me. Objection. Vague and ambiguous.

Q: You can answer.

A: I wanted him to be the son of Odin, who is the King of the Gods, like Jupiter. And I wanted him to have an evil brother, Loki. And just like the Fantastic Four were always fighting Dr. Doom, and Spider-Man was usually fighting the Green Goblin, I figured Loki would be the big villain. He's Thor's half brother. He's jealous of Thor.

He has enchantment powers. So in a way he's a good foe.

Thor has strength, but Loki is like a magician and can do all kind of things. So that seemed good to me.

And then Thor had a girlfriend from legend called Sif, S-I-F. And I would have her

involved in the stories and have jealousy.

And then I wanted some comedy relief, so it wasn't -- I don't think it was until the strip had been going for a while, but I decided there were three guys. I called them The Warriors that I wanted to include, a very fat guy named Volstag, The Voluminous Volstag, I called him, who acts like a real hero. "Come on, let's go get them." But when the fights start, he's cowardly and always holds back.

Another guy like Errol Flynn called Fandral the Dashing. And a guy like Charles Bronson in Death Wish. I think I called him Hogan the Grim. And the three of them, Fandral the Dashing, Hogan the Grim, and Volstag the Voluminous I thought they could be Thor's friends, and they would provide comedy relief. And I'm happy to see they're using them in the movie, I think.

And it was something that we both enjoyed doing very much. And Jack was wonderful with the costumes that he gave them. I mean, nobody could have drawn costumes like he gave them.

Q: The character Thor, how did -- what idea did you have to come up to give him his powers?

A: Well, he had --

Q: What was the back story?

MR. TOBEROFF: Assumes facts.

A: Oh, yeah. He had mainly a hammer, an enchanted hammer. The back story was I decided to make him a guy here on Earth, Dr. -- I forgot his name. But whatever his name was, he was lame and he walked with a cane. And for some reason he went to Norway, and there he

-- I think -- the Stone-Men from Saturn or somewhere.

Some aliens who were stone men had landed in Norway and they wanted to kill our doctor.

And he rushes into a cave somewhere to hide from them. And they're coming toward him, but he sees a hammer in the ground, and some kind of a sign that said -- I don't remember the exact wording, but, Whoever is worthy would be able to lift this hammer, sort of like the King

Arthur legend. And he grabs the hammer, and he's able to lift it up.

And it seems that destiny had prepared that for him over the centuries. The minute it lifts it up, he turns into The Thunder God Thor, and wielding the hammer he takes care of the Stone-Men. And then he can always become Dr. Don Blake. That was his name. I believe Don

Blake. If he hits the hammer on the ground, it turns back into the cane that he always had because he was lame. He walked with a cane as Don Blake, Dr. Don Blake.

So he's a surgeon, who walks with a cane, but when he hits the cane on the ground, he turns into the mighty Thor, God of Thunder. And that was the idea.

Q: You have a lot of doctors. Do you have any lawyers in this whole process?

A: Maybe next time. Next go round. We do have a lawyer Daredevil.

Q: Daredevil. Tell me about Daredevil.

A: Yeah. Same thing. Oh, by the way. I think Thor also was written by my brother. After I came up with the outline, I think Larry wrote the first script.

Now, let me see. Daredevil.

Q: Daredevil. I want to hear about the lawyer.

A: Again I'm trying to think of what can I do that hasn't been done. And it occurred to me --

Q: Well, certainly making a lawyer a hero would fall into that category. But, in any event, go ahead. Tell me about Daredevil.

A: After this is over, I want him to write for us.

I figure I will get a blind man and make him a hero. And how you do that. So I said, what if all his other senses are very acute? What if he can hear so well that he can tell if you're lying to him because he hears your pulse rate speed up, your heart beat. And he can smell so well he can tell if a girl has been in a room. He could smell her cologne even if it was two days ago.

You know, you get your balance through your ears.

So he's like an acrobat, like a circus tightrope walker. He can do anything any trained

athlete

can do. And on and on. And I figured that's kind of good. Oh, and he has a radar sense and a sonar sense. So when he's Daredevil, nobody knows he's blind. He is like the greatest circus acrobat.

However, he has a law office. His name was Murdock, Matt Murdock. And he had a friend named Foggy Nelson. For some reason I called him Foggy. And they have a law firm called Nelson and Murdock. And I have him fighting villains who weren't too super. He didn't fight

monsters or anything. I tried to keep the strip a little more realistic. But I loved the character.

And Jack was busy, and Steve Ditko was busy.

Everybody was busy, but there's an artist named Don Heck -- not Don Heck, I'm sorry -- named Bill Everett who had done one of the first strips that Martin Goodman ever had when he started Timely Comics. And that was the Sub-Mariner. And Bill was still around, and I called Bill, and I said, "How would you like to draw Daredevil? And he said, "Oh, great." So I gave him what I told you essentially, little more because I forget who the villain was in the first story. But whatever it was, that's what I told him.

And he drew it, and I put in the copy. And it's a shame Bill was ill or something. I don't know. He couldn't do too many strips. He did one or two and then that was the end of it.

Q: Keeping with our discussion, could you tell us about the creation of X-Men? How did that come about?

A: Again, Martin asked me for another team because the Fantastic Four had been doing well. And again I wanted to try something different. And I thought what -- I could think of superpowers for them, but how do they get their powers? I have already had cosmic rays and

gamma rays and bitten by a radioactive spider. What was left?

So I took the cowardly way out. I said I'm going to just say they were born that way. They're mutants. Now I don't have to figure out gamma rays or anything. So I decided to have a group of young mutants.

And I really, the more I thought about it, the more I liked it. I said, they'll go to a school. They have to keep their mutant powers secret, so it will just say a School for Gifted Youngsters. Nobody will know it means mutants.

And we'll get a professor who gets them together. And this guy should also have mutant powers, but I will make him have mental powers. He's got a brain.

He can send thought waves all around, and he can send his thought waves around to detect where there's a kid with mutant powers, and then he'll ask that kid to enroll in his school. And again, so that he isn't too powerful, I thought I would make him in a wheelchair. He's the

professor.

Q: And what was his name?

A: Professor Xavier.

And then I thought of the characters. There would be a girl who can do -- called Marvel Girl, who could do crazy things, and a fella called The Beast, who looks a little bit apelike. So to go against type, I made him the smartest and the most articulate of all of them.

And a guy named The Angel with wings, and so forth.

And when I went to tell the idea to Martin Goodman, I said -- he loved it, but I said, "I want to

call it The Mutants."

He said, "That's a terrible name. Nobody knows what the word "mutants" means." So I went back, and I thought about it. And I thought Professor X, Xavier.

And the mutants have extra powers. For some reason I thought I could call them the X-Men. So I went back to Martin. He said, "Oh, that's a good name." And as I walked out, I thought, if nobody knows what a mutant is, how were they going to know what an X-Man is? But I had my name, so I wasn't about to make waves.

Q: And you gave the -- this --

A: Oh, yeah, luckily --

Q: -- idea to Kirby?

A: Luckily, Jack was free at the time. And again, he did a wonderful job.

Q: Did you, again, with X-Men follow the same pattern you testified before, using the Marvel method?

A: Yeah. I spoke to him. I don't even think I wrote anything. I think we talked about it. And he was on absolutely the same wave length. He saw it the way I did. So I said, "Go on and draw it." And he did, and it came out great. And I wrote the copy, and it became one of our best-selling strips.

Q: Next Nick Fury. Tell us about Nick Fury.

A: Nick Fury, Agent of S.H.I.E.L.D. There was a television series called The Man from U.N.C.L.E. that I used to watch and I liked it. And I thought it would be fun to get something like that as a comic book. So I remembered we had done a war series called Sgt. Fury and his Howling Commandos, Stories of World War II. And it was quite popular. I don't really like war stories, so after a few years of doing it I asked Martin if we could drop the book so we could concentrate on superheroes. And he said okay. But we got a lot of fan mail. The kids loved the characters. And we kept reprinting those books, and they sold as well as the originals.

So when I wanted to do the thing like The Man from U.N.C.L.E., I thought why don't I take that popular Sgt. Fury that was years ago in World War II, why don't I say he's older now and he's a colonel, and he's in charge of this new outfit that I made up, S.H.I.E.L.D, which stood for the Supreme Headquarters International Law Enforcement Division. So I took Sgt. Fury, who now has a patch over one eye, and made him in charge of this group.

And again, there was Jack Kirby. I said, "How would you like to draw Nick Fury, Agent of S.H.I.E.L.D. And it was right up Jack's alley. He loves that kind of stuff. And he came up with all kind of weapons and things.

Q: And again, you had the same process of overseeing and editing it?

A: Yeah. It was always the same process.

Q: Let's focus on The Avengers. How did The Avengers come about? First, tell us who The Avengers are.

A: Well, they're anybody that we wanted to put in the group of our own heroes. I don't even remember who they were in the first issue. It might have been Iron Man, Captain America, Thor, Daredevil. I don't even remember because we kept changing

the roster each month,

whoever we felt like. But the idea was that they were organized by -- I don't remember which of our heroes organized. Oh, they got together and decided to become a fighting team. Again we wanted something like The Justice League that DC had.

Q: Had you discussed the idea for The Avengers with Martin Goodman?

A: Oh, sure. Oh, sure. I couldn't do any book unless Martin approved of it. And I remember Iron Man who was the rich one. I had them use Iron Man's mansion on Fifth Avenue as The Avengers' headquarters, and Captain America was definitely an Avenger. Iron Man. And Spider-Man never joined them; he was a loaner.

But then I would have them -- the toughest thing about The Avengers, they were also powerful that we had to find very powerful villains for them to fight. And again, you know, Jack drew it, and it turned out to be popular. They're going to make a movie of that, too.

Q: You needed to have very powerful villains to make it a fair fight.

A: Oh, sure. In fact, it's always best if the villain -- if it isn't a fair fight; if the villains seem even more powerful, because then you wonder how will the hero ever get out of this one.

Q: And who came up with the back story for The Avengers?

A: There really wasn't much back story. I did, but just the idea that they all get together and form a group. Because I didn't have to create new characters.

We had them. I just needed an excuse for them to get together. And honestly I forget what the excuse was now.

Q: Let's talk a little bit about one of my favorites, Ant-Man. Tell us a little bit about why you came up with and how you came up with Ant-Man.

MR. TOBEROFF: Assumes facts.

Q: Who created Ant-Man?

A: What could I do that was different? I didn't know of any hero that was that big (indicating). So I thought, I'll go for it. Martin okayed it. And I don't remember if Jack did the first one or not. Maybe he did or you wouldn't be mentioning it.

You know, it was just -- it was not all that successful. And I later realized why it wasn't that

successful. The interesting thing about a character who is that big (indicating), would be to show him against a lot of big things. But somehow no matter which artist drew him, they always made him look life size. They put him in the foreground. So you didn't enjoy the contrast of this little guy next to big -- you know, if they had him near a cigarette in an ashtray, but they always had him somehow where he didn't look like Ant-Man.

Anyway, I hate to give up. So at some point I changed him to Giant-Man. He had the ability to become a giant.

Q: The ant could become a giant?

A: Yeah. And that didn't become too popular either, although he's still running somewhere in the books.

Q: Who came up with the idea of making -- having Ant Man become Giant-Man?

A: I'm embarrassed to say it was me.

MR. QUINN: Let's go off the record for a second.

THE VIDEOGRAPHER: Off video at 12:05p.m.

(Recess.)

THE VIDEOGRAPHER: Back on video at 12:06p.m.

Q: Just to clarify, because we may have been talking over each other. Who was it who came up with the idea for Ant-Man?

A: I did.

Q: Okay. One more we can talk about right now is the raw hide kid tell us about The Rawhide Kid.

A: I don't really know what to tell you. Martin, the publisher, he loved Westerns. And we had a lot of Western books, and he loved the name The Kid. We had Kid called Outlaw, The Rawhide Kid, The Texas Kid. We had a few others I can't remember. He loved that word. And the Rawhide Kid was just one of the many Westerns we had. And I, as far as I know, my brother had been doing most of them. He was

writing and drawing them. I don't remember who started it. Maybe it was Jack that I did it with first. I probably wrote the first one.

But it was just -- I don't even remember.

Maybe he was somebody wanted by the law, but he was really a good guy, and nobody knew it and he just rode around The West having adventures.

We didn't put a lot of thought into our Westerns, really. They were all pretty much alike, just a guy who is the fastest gun in the west, and he fights bad guys.

Q: And with The Rawhide Kid, you followed the same practice of making the assignment and then overseeing it and editing it?

A: Yeah.

Q: Switching to another subject. Do you recall that sometime back in 2002 and 2003 you had a dispute with Marvel?

A: Oh, yes.

Q: And what was that dispute about?

A: Well, according to my contract, I was supposed to get 10% of the profits of -- Marvel's profits from the movies and television and things like that. And I felt I hadn't been getting it.

Q: Did during the course of that dispute did you ever say that you owned the characters and not Marvel?

A: No, that wasn't part of the dispute.

Q: And from your perspective, who did you believe owned the characters?

A: Say that again.

Q: Who did you believe owned the characters?

A: I always felt the company did.

Q: Now, do you recall during the course of that dispute that my nice friend, Mr. Fleischer over there, took your deposition?

A: I don't recall it, but I take your word for it. Somebody took it. I don't remember

who.

Q: I'm going to show you a portion of that deposition --

A: All right.

Q: -- and just ask you a couple questions about it. We'll mark the deposition transcript itself as Stan Lee 8.

(Lee Exhibit 8 marked for identification.)

MR. TOBEROFF: Is this the entire transcript of the deposition?

MR. QUINN: Yes, but I promise I won't play It all.

THE WITNESS: Oh, wow.

THE REPORTER: I'm sorry, did you want me to report it?

MR. QUINN: No.

(Video recording playing.)

MR. QUINN: That was you up there, wasn't it?

A: Looked like it.

Q: Now, is that testimony consistent with your current recollection?

A: Yes.

Q: And truthful testimony when you gave it?

A: Pardon me?

Q: It was truthful testimony when you gave it?

A: Yes.

Q: Back in November, I guess, 2003?

A: But we left out Thor for some reason. I didn't remember Thor.

Q: Well, you've testified about Thor here.

That's probably good enough.

THE VIDEOGRAPHER: I'm sorry, we're getting some audio interference. Off video real quick.

MR. QUINN: Yes.

THE VIDEOGRAPHER: Off video at 12:14p.m.

(Recess.)

THE VIDEOGRAPHER: Back on video at 1:36p.m.

MR. QUINN: Good afternoon, Mr. Lee.

A: Good afternoon.

(Lee Exhibit 9 marked for identification.)

(Lee Exhibit 10 marked for identification.)

Q: We're going to mark, actually we have marked, a couple more exhibits.

As Lee Exhibit 9 we've marked some excerpts from audio and video clips that you're involved in, and we're going to be going to be listening and watching.

And Lee 10, a compendium of labels from the University of Wyoming American Heritage Center which labels various of these audio and videos indicating their dates and when they were done and with whom. Now, and I believe did we give copies to Mr. Toberoff? That's what those are.

Now, Mr. Lee, you have given a lot of interviews over the years on the subject matter of the

comic book industry?

A: Yes.

Q: And also many speeches?

A: Yes.

Q: And you've been involved in seminars?

A: Yes.

MR. TOBEROFF: Excuse me, if I can interrupt. This disk which says Stanley Deposition, is this from the University of Wyoming?

MR. QUINN: I believe the materials that are on that disk or most of them were from the University of Wyoming.

MR. TOBEROFF: Okay. And this is 10?

MR. QUINN: That's 9. The labels are 10.

MR. TOBEROFF: Okay.

MR. QUINN: And were some or many of those interviews and speeches and seminars recorded visually or sometimes on audio?

A: Some were. Yes.

Q: And did there come a time when you donated copies of these videos and recordings to the University of Wyoming?

A: Yes. I had so much around the house I didn't know what to do with it, and they offered to keep my effects and archive what they have.

Q: And was there a particular reason why you chose the University of Wyoming?

A: Silly. If I had thought about it, I would have gone to a closer college. But they told me that Jack Benny had his archive there, and they would put mine next to his. And I was a big fan of Jack Benny's, and I figured if they have him, it must be a good archive.

Q: Now, what I would like to do is play some audio and video for you and ask you some questions about these particular excerpts.

I believe according to the Wyoming archives in 1966 you were interviewed by a man by the name of Jim Saunders on his Gabfest program on the radio. And I want to play an excerpt from that audio, and we'll have some questions about that.

(Audio recording playing.)

Q: Now, was that your voice?

A: It seems to be. Yes.

Q: And was you describing -- what you told us was essentially the Marvel method in that recording?

A: I have to be honest. I couldn't hear it very clearly, but I'm always talking about the Marvel method.

Q: And what you did here, is that consistent with your recollection?

A: Yeah. Yes.

MR. TOBEROFF: Could I just ask you? Are you going to -- the copies here, Lee 10, you've given me copies of audio disks or video disks with labels, the packaging, packaging for the disk with a label. This is how it appears at the University of Wyoming?

MR. QUINN: These labels (indicating)?

MR. TOBEROFF: Yeah.

MR. QUINN: Yes.

MR. TOBEROFF: And are you -- you played an excerpt from the first one in this package you've given me Barry Gray January 31st, 1966. Is that what you just played?

MR. QUINN: I think we just played one from 1966, a different one. It was identified on the record, Gabfest.

MR. TOBEROFF: So are you going to be producing the whole interview from which you just played this tiny excerpt?

MR. QUINN: Yes, we would be producing that.

MR. TOBEROFF: Are you going to supply that to me today?

MR. QUINN: I don't think we have it all here today, but we will get it to you promptly.

MR. TOBEROFF: Okay.

MR. LIEBERMAN: You have to sit where you can hear it.

THE WITNESS: Yeah, I should. I will move over there next time.

MR. TOBEROFF: And Court Reporter, are you taking down the audio?

THE REPORTER: No. Mr. Quinn said he didn't need me to.

MR. TOBEROFF: I think the court reporter should take down the audio because, you know, the disks you're supplying me with on the deposition to make the deposition understandable I think she should take down the audio that he's responding to.

MR. QUINN: It's not a problem one way or the other, but it is on the disk. So you can play it, and you will hear it.

MR. FLEISCHER: It's not customary to have her --

MR. TOBEROFF: Yes, but to have a --

MR. QUINN: It's not. I think Mr. Fleischer is correct; it is not customary to do that.

But if you're able to take it down, do the best you can. But that disk is the actual record. It is,

in fact, an exhibit to the deposition. So she may or may not get it correctly given the fact that it's going to be difficult to hear.

MR. TOBEROFF: I guess my question is the exhibit to the deposition is going to be that short little part of the interview that you just played or is it going to be the entire interview?

MR. QUINN: To the deposition? The exhibit is going to be what we have marked as the exhibit, which is the excerpts.

MR. TOBEROFF: Okay.

MR. QUINN: Okay. Now, hopefully we'll have that and you'll hear it a little bit better. We have another excerpt. And this one I want to make sure that you can hear.

This is, according to the University of Wyoming archives, an interview you gave to a Mr. Mike

O'Dell, WBAI-FM New York radio in March of 1967, you and also Jack Kirby.

Do you recall from time to time that you gave interviews with both yourself and on some occasions Mr. Kirby?

A: Yes.

Q: Can we play that and let's make sure it's loud enough.

(Audio playing. Reported as follows:)

UNIDENTIFIED VOICE: Mr. Lee and Mr. Kirby are going to be asked some questions about their superheroes. And I guess the first one would be addressed to Stan Lee, and it's the title of this program. Stan will success spoil Spider-Man?

Now that Captain America is back in the fight is there going to be talk about sending --

THE REPORTER: I'm sorry, I can't take that.

Q: Did you hear that clearly?

A: I couldn't make out what the question was. I could make out --

Q: Let's play it again.

A: Maybe if it is a little lower. See, my problem is I have a hearing problem. I can hear, but sometimes if the speech isn't clear, I can't make out the words. It sounds like blah, blah, blah. You know what I mean?

Q: Yep. I know What you mean exactly.

MR. TOBEROFF: That sounds that for us also.

MR. QUINN: Let's play it again.

(Audio playing. Reported as follows:)

UNIDENTIFIED VOICE: Mr. Lee and Mr. Kirby are going to be asked some questions about their superheroes. And I guess the first one would be addressed to Stan Lee, and it's the title of this program. Stan will success spoil Spider-Man?

THE WITNESS: That's what I didn't -- Stan what?

MR. QUINN: "Will success spoil Spider-Man?"

THE WITNESS: Oh, will success spoil spider-man.

MR. QUINN: Then there's a question directed to Mr. Kirby. Play that.

(Audio recording playing.)

THE REPORTER: I can't report that.

MR. QUINN: Now, what I want to ask you is: Whose voice was that that we just heard?

A: That was Jack Kirby's very distinctive voice.

Q: And when Mr. Kirby said in that interview we just heard that "The editor always has the last word on that," is that -- you agree with that?

A: Was he referring to the question, Would success spoiled Spider-Man?

Q: No, he was referring to whether Captain America was going to be sent to Viet Nam.

A: I didn't hear that. Well, yes. I -- if Captain America had been in this country, and one of the writers decided, hey, I think I'd like to send him to Viet Nam and let him be part of the Vietnamese war or whatever, then I would have had to say okay. Or I might have said to the writer, no, I'd rather keep him here.

Q: So you agree with Mr. Kirby that the editor always has the last word on that?

A: Yes.

MR. TOBEROFF: Counsel, are you going to be providing me at this deposition with a copy of these excerpts?

MR. QUINN: You have a copy of the excerpts in your hand.

MR. TOBEROFF: They're all --

MR. QUINN: We're going to listen to them all together.

MR. TOBEROFF: No, I'm talking about --

MS. SINGER: They're all on that disk.

MR. TOBEROFF: This is the Stanley deposition and the audios on this disk?

MS. SINGER: It's the clip from the Stanley deposition. It's all the audio and video.

MR. TOBEROFF: That was unclear to me. Thank you.

MR. QUINN: Okay. The next excerpt, according to the archives in Wyoming, involves questions that were being posed by an unknown French man to you. And let's play that. And I'm going to ask you some questions about that.

UNIDENTIFIED VOICE: Again on this interview from this guy in France, my method for the construction of the script consists of discussing the story with the artist and having the artist do the penciled artwork on his own, drawing whatever he wants so long as it tells the story we've discussed. Then would put in the dialogue and the captions and indicate where the dialogue and the captions -- where the dialogue balloons are to be placed and where the captions go. And then the script goes to the inker. It's lettered, of course. And I have it proofread and that's it. I proofread it myself really if it's my own story.

THE WITNESS: Wow.

MR. QUINN: Is that consistent -- that's your voice, isn't it?

A: What I could hear sounded right, the dialogue and the captions. And it goes to the -- yeah, that was me.

Q: And that was the method you used?

A: Yeah.

Q: Let's go to the next excerpt, this one from the archives is marked as NYU-TV and dated March 16th, 1972.

(Audio recording playing. Reported as follows:)

UNIDENTIFIED PERSON: Good morning. I wonder if you could tell us who you are and what you do, for people that don't know.

STAN LEE: My name is Stan Lee, and I produce comic books. There are 50 million reasons why we change artists. Sometimes we do it because the book isn't selling well to hype up sales. Sometimes we do it because an artist is simply tired of the job. He says, if you don't take me off this thing, I will go out of my skull, and I want to do something else.

Sometimes we do it it's like falling dominos. An artist is late or is sick, and his book is late, so we have to take an artist off this strip to do that book quickly to make the printing date. So we have to take another artist off this book to do this book which this artist came off. Now we have to take an artist off this book to do this book, and it

goes right down the line.

MR. QUINN: Again, is that your voice we just heard?

A: Yeah, that was definitely me.

Q: And is that consistent with your recollection as to how you dealt with artists during that period of time?

A: Well, I caught the falling dominos part. I really couldn't understand what came ahead of it, but the falling dominos was correct.

Q: And what do you recollect about the falling dominos?

A: Well, it was like if an artist couldn't do one book, you had to take another artist and give him that book, but then that artist had to be replaced on his book by another artist. And you had to keep shuffling them around.

Q: And who was in charge of shuffling them around?

A: Well, I was.

Q: Now we have a video. This one is dated --

A: That might be easier to hear.

Q: We can hope. This one is dated from January 12th, 2000. And according to the archives in Wyoming, University of Wyoming, it is an interview video that was done and distributed by the, I guess, Disney Feature Animation.

Why don't we play this one.

(Video recording playing. Reported as follows:)

STAN LEE: Years later, Jack came back. I don't remember, I guess it was in the 50s. And it was great. And I would write scripts, and Jack would do the artwork.

But then, we were such a small company. I was doing most of the writing, most of the books.

And let's say I would be writing a story for Jack and one of the other artists. Steve Ditko might walk in or John Buscema or Romita or somebody, and they needed a script. Now, these guys were all freelancers. And if I didn't have a script for them,

they weren't getting paid. They were standing around with nothing to do.

So I hadn't finished typing the script for Kirby, and here is Romita who needs a script. So I said, "Look, John. I can't stop what I'm doing, but here's the story that I would like you to do. I will tell it to you. You draw it any way you want. I will put in the dialogue and the captions later." And he did. Then Ditko would walk in, and I would say that to him, and Gil Kane, and whoever they were.

Now, it was done originally in order to save time. It was sort of an emergency situation, but I found we're getting better stories and artwork that way. Because instead of me writing Panel 1, closeup, blah blah blah; Panel a longshot from up above or whatever, I was leaving it to the artist.

And I was very lucky, because I had the kind of artists who were great visual storytellers, and I'm sure that they dreamed up shots that I never would have even thought of. So when I got the artwork back from them, it was beautiful, because they had the freedom to tell the story in their own way visually.

Also, it was easier for me then to write the dialogue, because as you can imagine, if you're typing and looking at a blank sheet of paper, you're imagining what the people would say. And you're imagining how they would look in the drawing.

But when you have the drawing in front of you, and when you see somebody drawn like, aagghh! (indicating), you know, you write "Aagghh!" It makes it so obvious.

And what started as an emergency situation, it turned out, I thought, to be the best way to do the stories. And that, after awhile, became known as the Marvel Method.

And Jack Kirby and I would, let's say when we did the Fantastic Four, I first wrote a synopsis of what I thought the Fantastic Four should be, who the characters should be, what their personalities were. And I gave it to Jack, and then I told him what I thought the first story should be, how to open it, who the villain should be, and how we would end it. And that was all. Jack went home and drew the whole thing. I put the dialogue in. And it turned out to be quite successful, and we worked that way for years.

MR. QUINN: Now, did I correctly recognize that to be a slightly younger version of you?

A: Yes. Yes, I do.

Q: Sorry, I didn't have my microphone on. That was you up there on the screen we

just

saw?

A: Yes, it was.

Q: Couple years ago?

A: Mm-hmm.

Q: You haven't changed much. And what you were describing there was essentially the Marvel method?

A: Yes.

Q: And that what was -- and the Jack that was being referred to repeatedly was Jack Kirby?

A: Jack Kirby. Always.

Q: Let me just play two more, couple of more clips or another clip from that same interview.

(Video recording playing. Reported as follows:)

STAN LEE: What input did I have in the visual development of the Marvel characters?

Well, I had a lot of input in one sense. When I created the characters and the idea for the story, I would tell the artist how I wanted him to look.

MR. QUINN: Now, is that consistent with your recollection of how you operated back in the 50s and 60s?

A: Yes.

Q: And one more clip from that same interview.

(Videorecording playing. Reported as follows:)

STAN LEE: I never owned these characters. I did them as a work for hire. So the company owned the characters.

MR. QUINN: And that's still consistent with what you believe today?

A: Yes.

(Lee Exhibit marked for identification.)

Q: Now, I want to mark, and I think we may have already marked it this one -- I don't think we have a copy of, but I'm only going to ask you a couple of questions -- as Exhibit 12. It's a book entitled, "Origins of Marvel Comics," by Stan Lee.

And could you tell us what that book is?

A: At some time in the past Simon & Schuster wanted to do a book about Marvel, and they asked me to write it. And they wanted to know how I came up with the ideas for the various characters, what the origins were of the characters. So I turned out this book, and they sold

it. It did very well, actually. They asked for a sequel. I did "Son of Origins of Marvel." Then I did one about the villains called, "Bring on the Bad Guys." And then I did one about the females called, I think, "The Superhero Women." So there were four books in the set, and this was the first one.

Q: This one I note was copyrighted in 1974. Was that approximately when you did this book?

A: Yes.

Q: And when you were doing this book and the other three books that make up the series, did you make an effort to be as accurate as possible?

A: I always try to be accurate.

Q: And as truthful as possible?

A: Yes. I had to be because people were going to be reading it. And if I wrote anything that wasn't so, I'd sure hear about it.

Q: And okay. I want to go back over a little bit of the ground we already covered but using some excerpts from things that you've written or said in connection with the creation of some of the characters that we've talked about already.

And let me mark or I think we have now marked another book entitled, "Stan Lee: Conversations," which we've marked as Stan Lee 11. And I'm going to ask you whether you're familiar with this particular book.

(Lee Exhibit 11 marked for identification.)

A: Yes.

Q: And whose mug is on that face? Whose face is on the --

A: Oh, that's mine.

MR. TOBEROFF: Did you mark the prior book?

MR. QUINN: Yes, I believe we did. Have we marked this one?

THE REPORTER: Yes, bottom right. Oh, it's on this copy.

MR. QUINN: Yeah, that one is marked. I need to get you copies of all of these.

MR. TOBEROFF: You don't have a copy of those?

MR. QUINN: Today I do not have a copy of that.

MR. TOBEROFF: I don't know why -- with all this technology around, and all these video clips and audio clips, you can't copy a book on a xerox machine and give it to me at the deposition?

MR. QUINN: Well, I'm sure we'll be able to get it to you, you know, promptly. The book, as I

understand, happens to be very difficult to obtain. But, in any event, let's -- Do we have a copy of -- no, the "Stan Lee: Conversations" book. You have a copy of that one, I,

believe, or the excerpts that we're going to refer to, Mr. Toberoff.

You can certainly utilize the one that's marked if you would like with regard to "The Origins of

Marvel Comics," since I'm not going to ask him any questions about it beyond his identifying it.

Let's take a look, if you would, at page 137.

A: Which book?

Q: Of the red book right there, the one that has your picture on the cover.

First of all, tell me what this book is.

A: Oh, I have a fan whose been writing to me a lot who is a professor at some Canadian college. And one day he asked if I would mind if he did a book. He collected a lot of interviews I'd done, and would I mind if he put some of those interviews in book form, because he's expect -- as part of his job at the college, he's supposed to do books every so often. And he chose this subject. And I said, Sure, you know, be my guest. And this is the book he did.

Q: So this is a compendium of interviews that you gave over the course of I believe about 30 years? Because it covers --

A: Yeah.

Q: -- from 1970 to the late 90s.

A: I never really looked at the years, but, yes, he took various things that he could find from my interviews and put them in a book.

Q: Okay. And let's look at I believe so we have that for the record this was a book that shows it has a copyright of 2007. Is that about when he --

A: Yeah, I guess so.

Q: -- when it was distributed? Okay. Could you take a look at page 137 of this book.

A: Right.

Q: And this is an interview according to page 134 that you gave to Roy Thomas in 1998. You've already told us who Mr. Thomas is.

And I want you to refer specifically to towards the bottom of page 137. I'm just going to read an excerpt from what you are answering. Mr. Thomas has asked you:

That would have been in very late '40 or early '40s in terms of when the issues left the office. Less than a year later, you became the temporary Editor. That lasted for decades.

Now skipping ahead to 1961, the story has often been told of this infamous legendary golf game with Martin Goodman and DC President Jack Liebowitz in which Mr. Liebowitz bragged about the sales of Justice League of America. And Goodman came back and told you to start a superhero book.

Was that story really true?

A: Yes, as far as I know it was. He told me he had been playing golf with -- I think it was Jack

Leibowitz. Somebody who was high up at DC. And they told him that the Justice League was a big-selling book. So he came and said, Let's do one like it with a lot of heroes.

Q: And you answer here:

That's absolutely true. He came in to see me one day and said, "I've been playing golf with Jack Leibowitz." They were pretty friendly. And he said, "Jack was telling me that the Justice League is selling very well and why don't you do a book about a group of superheroes. That's how we happened to do the Fantastic Four.

A: That's right.

Q: And that's consistent with your recollection and your prior testimony?

A: Yes.

Q: Now, could we now play from the University of Wyoming archives a portion of a talk according to the archives you gave at the Atlanta Fantasy Fair on July 26th, 1984. I'm going to show you a clip from that.

(Video recording playing. Reported as follows:)

STAN LEE: Martin came to me one day. He said, "You know, Stan, I was looking for sales figures, and DC has a book called" -- I never can remember is it Justice League or Justice Society, but whatever it was. He said, "It's selling pretty well. Maybe there's a market for a team of superheroes. Why don't you come up with one."

And I said okay. But I didn't want just another DC type, you know, of a team of superheroes. Not that there's anything wrong with what they did. So I had to do a team because that's what the publisher wanted, but I had to try to figure out a way to do it differently.

And I figured, okay, what can we do that's different. Let's make a team that doesn't always get along well together. They fight amongst themselves. Let's have the girl be the fiancée of the hero, so it's not a case of she doesn't know his identity or anything. They're about to get married, and in a later issue we'll have them get married and

have a kid and all that. And let's make one of the heroes an ugly guy, and that'd be a good thing.

And then I thought it would be really great to take a character from the 1930s and bring him back again. That would be Human Torch, whom I had always loved. But I decided to make him a teenager, which I had always hated, but I figured I'll make him act like a real teenager. He's rotten and nasty and fights with The Thing.

A: Boy, I was good.

Q: That was you up there in that video?

A: It sure was.

Q: And who was the other guy?

A: I don't know.

Q: Was it Jim Shooter?

A: Mm?

Q: Was it Jim Shooter?

A: It could have been. I was looking at me.

Q: Could you identify or tell us who Jim Shooter --

A: Jim Shooter was -- at some point he became Editor-in-Chief of Marvel, and he was there for a few years. I forget the exact years. Way after Roy Thomas.

Q: Sometime after Roy Thomas?

A: Right. He was more recently the Editor-in-Chief.

Q: And looking at that video excerpt again, that's consistent with your recollection as to how the Fantastic Four was created?

A: Yes.

Q: Next we have a video. I guess, I think it's from the same interview we saw before. This is the Disney Feature Animation interview, January 12th, 2000. And this one relates to the Silver Surfer.

Can we play Silver Surfer.

(Video recording playing. Reported as follows:)

STAN LEE: I remember saying to Jack, I want to get a villain who is more powerful than any other. Let's call him Galactus, and let's make him a demigod. Because we already had Dr. Doom, who was the king of his own country. How can you be bigger than that? So we came up with Galactus.

Okay. Now, I gave Jack a rough idea of the story. He drew it and gave to me. And when I looked at the artwork, there is some naked nut on a flying surfboard that I didn't (laughter.) I didn't know anything about him. I said, "Who is this?" So this is what made the work fun. I never knew what to expect. So Jack said, "Well, I figure anybody as powerful as Galactus who wants to destroy planets ought to have a herald who goes ahead of him and finds the planets." I thought that was a great idea. So normally Galactus would have just been a herald -- I mean, the Silver Surfer would say, Hey, Galactus, there's a planet. Go get it, you know. But there was something about the way that Jack drew the Silver Surfer in the artwork. He had a certain nobility. He was so great looking. And I said you know, Jack, let's really --

because Jack figured we'd only use him once and throw him away. I said, "I like this guy. Let's use him."

And little by little we started putting him in the stories. And the next thing I knew I have him philosophizing and moralizing and all the corny bits of philosophy that I might have liked

to find a way to get across started coming out of the Silver Surfer's mouth.

Q: And once again, that's you up there --

A: It certainly is.

Q: -- on the screen? And that's consistent with your recollection as to how Silver Surfer came about?

A: Yes.

Q: Let's go -- let's look back at this book again, the book which is "Stan Lee: Conversations," and focus on page 96. Now, this is from an interview that you gave to, according to page 85, an interview with Stan Lee by Leonard Pitts in 1981.

And this was one of the many interviews that you gave during this period of time?

A: Mm-hmm.

Q: Let's look at page 96. And in the middle of the page Pitts is asking you about Spider-Man. And you say:

I remember when I was a kid years old. There was a pulp magazine called "The Spider, Master of Men." And I always thought that title was so dramatic. He was nothing like Spider-Man. He was just a detective who wore a mask, and he went around punching people. He wore a ring with a spider insignia so when he punched somebody it would leave a little mark of a spider on the person. And I figured, gee, why not call the guy, my guy, Spider-Man.

And Pitts asked you, "Although Spider-Man is arguably the most popular single superhero in comics, legend has it that your publisher, Martin Goodman, took a lot of convincing when you wanted to try the character out."

And you say: "He said it was the worst idea he ever heard. He said people hate spiders, and it sounded too much like Superman, the idea of someone sticking to the wall and stuff. He called it grotesque."

And do you recall that interview, and is that consistent with your recollection of the development of Spider-Man?

A: Yes, it is.

Q: We have another track that according to the University of Wyoming archives is a lecture that you gave at Virginia Tech. You'd get around back in those days.

A: Yeah, I did.

Q: A lecture that you gave at Virginia Tech on November 15th, 1977. And I'd like to play that one for you as well.

(Video recording playing. Reported as follows:)

STAN LEE: One reason was as a kid I had loved a pulp magazine named The Spider. I was very young and probably very stupid. And to me, the most dramatic thing I could think of the cover of this magazine, the series of magazines, I was like The Shadow but not as famous.

It said The Spider, and underneath it, Master of Men. Somehow to me at the age of nine The Spider, Master of Men. Oh, I would love to be -- who wouldn't want to be a Master of Men?

And he had a ring, and he would punch a bad guy in the face. And it had a little spider thing on the ring, and it would leave a spider mark on the guy's jaw.

I mean, you know, next to Shakespeare... So when I was looking around for a character, I felt, gee, I've always kind of liked The Spider. Why don't I get a guy and call him Spider-Man.

So I presented that to my publisher, who as you may have gathered by now is a model of erudition. And he said, "Nah, nobody likes spiders. That's no good."

So I said, "Well, it's not a case of people liking spiders. Remember there used to be a Green Hornet. I don't think people are turned on to hornets."

"Nah, I don't like it. Forget it."

Anyway, I couldn't get him to advance the funds to put out this book. So finally we introduced Spider-Man in another magazine called Amazing Adult Stories, which we were going to kill. The book was dying. And at the last issue of that book when we were about to kill it off, just to get it out of my system, I threw the Spider-Man story in.

We got our sales figures later, and it was the best-selling book we had ever had. We made it into a series. And a few months later my publisher came to me and he said, "You know, Stan? Spider-Man, the best idea I ever had."

That was it.

MR. QUINN: Again, that was you talking about the origins of Spider-man?

A: That's right.

Q: And that's consistent with your recollection as to how Spider-Man came about?

A: More or less. Yeah.

Q: Let's talk about The Hulk. You have an excerpt, according to the University of Wyoming archives, of a speech that you gave at the L.A. Festival of Books in May of 1998. And this particular part focuses on creation of The Hulk.

(Video recording playing. Reported as follows:)

STAN LEE: My publisher, at that time I worked for a publisher, and he said, "Hey, come up with something else." So I was trying to think what could be different than a guy who bursts into flame and flies, an invisible woman, an orange skin (unintelligible), and a guy who stretches.

And I remembered I had always loved the Frankenstein movie. You know, the one with Karloff. I always thought that the monster was really the good guy. He didn't want to hurt anybody, but those idiots with torches were chasing him up and down the mountains and making his life miserable.

Then I also liked Jekyll and Hyde. I loved the idea that this nice gentle dignified intelligent doctor -- I'm sure it was modelled after me -- he suddenly turned into the most savage evil guy in the world. And I thought, why don't I combine the two?

I will take a normal guy, that was Dr. Bruce Banner, and I will have him turn into a monster.

But this monster would be good like I thought the Frankenstein monster was. But nobody will know he's good.

Anyway, I came to my publisher, and I said, "Hey, I've got an idea for you for the next book.

We're going to do a green skinned monster."

He said, "That's great. That's a great villain." He said, "Who's the hero?"

I said, "He's the hero." He is said, "Wait a minute, Stan. You just said you're going to do a green-skinned monster."

Oh, wait a minute. I'm lying to you. I wanted him to be gray skinned, and I don't remember why. I don't know why I thought of gray, but I thought that was kind of mysterious and dark. So in the first issue, those of you who may have even seen it, he had gray skin.

But here is what happened. The printing presses, I guess, weren't as well made or as sophisticated in those days, and on some of the pages his skin was light gray. On some it was medium gray. On some it was totally black. Some -- it was different shades on every page.

So there are no flies on me. And since when you're the writer of a comic book you can do anything, you're like God, so I said the second issue we're going to change his skin color. And I looked around. What color aren't we using?

And it happened that nobody was green at the moment. So I made this very intelligent decision. I said let's make him green.

Q: Again, that was you?

A: Yes, it is.

Q: And that's consistent with your recollection with regard to the creation of the Hulk?

A: Yes, it is.

Q: Now we have one relating to Iron Man. And this is an excerpt according to the archives at Wyoming of a speech that you gave July 1st, 1984, a talk at the Heroes Convention in Charlotte, North Carolina. Let's play this one.

(Video recording playing. Reported as follows:)

STAN LEE: By the time we did Iron Man, we were really facing challenges. And I was drunk with power, and I was looking to do things that nobody thought could be done.

Young people, as you know, are not really big war fans. And everybody said, Stan, you can't do a comic book where the hero is a guy who manufactures munitions for the war effort. This is not going to seem glamorous to our readers. And also he's a big industrialist and a (unintelligible.) In those days people were intent on being hippies and naturalistic stuff.

But here's this guy who represented the Establishment.

I said, wouldn't it be something if we could do him and make him popular. And of course the one way to make anybody popular is you make him tragic or pathetic in some way. So I tried to turn him into something pathetic. I said a weak heart is as good as anything.

And we did succeed. And I'm happy to say that the readers did kind of like him. I always thought of modeling him after Howard Hughes. I thought of him as a sane Howard Hughes.

MR. QUINN: And that was a sane Stan Lee?

A: That's right.

Q: And that also that video clip is consistent with your recollection as to the creation of Iron Man?

A: Yes.

Q: Only a couple more. Let's focus on Thor. You testified previously about Thor.

We have a clip that, according to the University of Wyoming archives, you did an interview with a Dick Syaitt, WFAA News Talk Radio in Dallas. This is dated May 1977.

And I'm going to play a clip of that interview for you. I think this is an audio.

(Audio recording playing. Reported as follows:)

DICK SYAITT: I'm Dick Syaitt on WFAA News Talk 57. Stan Lee is on the line with us.

STAN LEE: You know we needed new heroes.

Finally I said to myself, the only thing stronger than what we have, The Hulk is the strongest mortal on earth. We'll get a guy who is a God.

Nobody has really done anything with gods lately. So I thought to myself, let's see now. What kind of gods are there? People -- there have been a lot of stories about Greek gods and Roman gods. Nobody has really done much with Norse gods.

That ought to be interesting.

DICK SYAITT: Norse gods?

STAN LEE: Norse, you know, N-O-R-S-E, you know?

DICK SYAITT: Yeah.

STAN LEE: So, okay. I thought I'd always liked the idea of Thor, the God of Thunder.



And I had seen pictures of him, and I read a lot of books of legend when I was young. And there was always a shot of Thor with a huge hammer, you know. And I figured hey, that will be great. We give Thor -- what a great weapon a hammer will be, because the superhero always needs some sort of a visual gimmick.

And I enjoyed the idea that later on I could have him talk not in normal dialogue like, "Take that, you rat," but "Thou based varlot," pseudo-Shakespearean and biblical dialogue.

MR. QUINN: And once again that was your voice?

A: Very much so.

Q: And again is that consistent with your recollection --

A: Yes.

Q: -- concerning the --

A: Yes.

Q: -- creation of Thor?

Okay. Let's look at page 96 of the "Stan Lee: Conversations" book. And again, this goes back to the interview you gave to Leonard Pitts back in 1981. And this part of the interview is discussing the X-Men.

And --

A: What page --

Q: The X-Men.

A: -- did you say?

Q: Page 96, towards the top of the page.

Pitts is asking you, "The X-Men." And you respond:

They were originally called The Mutants, but my publisher at the time thought that the readers wouldn't know what a mutant was, so I changed it to The X-Men. We're always looking for new superheroes not so much for new heroes as for new explanations of how they came about. And I was getting tired of radioactive accidents. I felt

why not get some people who were born the way they are who had mutant powers. So we created X-Men.

And that's consistent with your recollection --

A: Yes.

Q: -- with regard to the creation of X-Men?

And last but not least, we have a video also part of that interview you gave on January 12th, 2000. And this one focuses on X-Men.

(Video recording playing. Reported as follows:)

STAN LEE: And that was how it started. I said, Hey, I'm going to use mutants. Then they can be whatever they want to be. Hey, they were born mutants. Prove them wrong.

So then I had to figure out who they'd be. And, oh, I got to tell you a funny thing. Here again I had a thing with my publisher. I wanted to call the book, The Mutants. I thought it was very dramatic: The Mutants.

He said, Stan, he patted me on the head, "Stan, our readers won't know what a mutant is. Well, he was still paying my salary, so I said I have to come up with another name.

Incidentally, I'm having a great time.

So I have to come up with another name. And I thought, and I thought, and I don't remember whether I got the name first or I thought of Professor Xavier first, but somehow or other we have Professor Xavier with an X. And I figured these characters have an extra power, their mutant power, and somehow the idea hit me, Let's call them The X-Men. A little bit sexist perhaps, there was a girl in the group, but nobody protested in those days.

So we called them the X-Men. And I presented that title to my publisher, who said now that's a good title. And I said to myself, if the readers won't know what a mutant is, how will they know what the hell an X-Man is? But I needed a title, and I didn't want to argue, and there we were.

MR. QUINN: That's you again?

A: That's my recollection.

Q: Consistent with your recollection --

A: Consistent.

Q: Okay.

A: Getting to talk like a lawyer.

Q: Please don't. Stay as a comic book person. Let's go back for one second to -- we have a copy of what we first marked as Stan Lee Exhibit 1, which was the affidavit with the attached schedule. It's probably in that pile somewhere.

I believe this is an affidavit that you testified about earlier, Mr. Lee. And it was a schedule of characters attached to the affidavit. And the question I really just have -- you can take a look at the schedule. These are all I believe you testified characters that you either created or co-created.

A: (Marking.) (Document review.)

There are three of them here that I'm not really sure of. I don't really remember them that well.

The one is Richard Fisk. I don't remember that one. I may have created him. I just don't remember.

The other one is Mr. Fear a/k/a Machine Smith. I don't remember that.

And there's one Ymir, I guess. I don't recall that.

The others, though, I think --

Q: You do recall all those and created or co-created the others?

A: Yeah.

Q: Those three you just don't have a clear recollection of?

A: Pardon me?

Q: Those three you have no clear recollection of --

A: That's right.

Q: -- one way or the other?

A: That's right.

Q: The question I have for you really is very simple. You testified at some length over the last few hours about the manner in which characters were created at Marvel.

A: Mm-hmm.

Q: And was that same method used in connection with the creation of the characters that are set forth on Schedule A?

A: I'm sorry, would you say the last part of that?

Q: Was the same method used in the creation of the characters that are set forth on Schedule A?

A: Oh, yeah. Sure.

Q: It was the same kind of method?

A: Right.

MR. TOBEROFF: Are you referring to the Marvel method?

MR. QUINN: The methodology that he's testified to over the last several hours is what I'm referring to.

Q: The answer is yes?

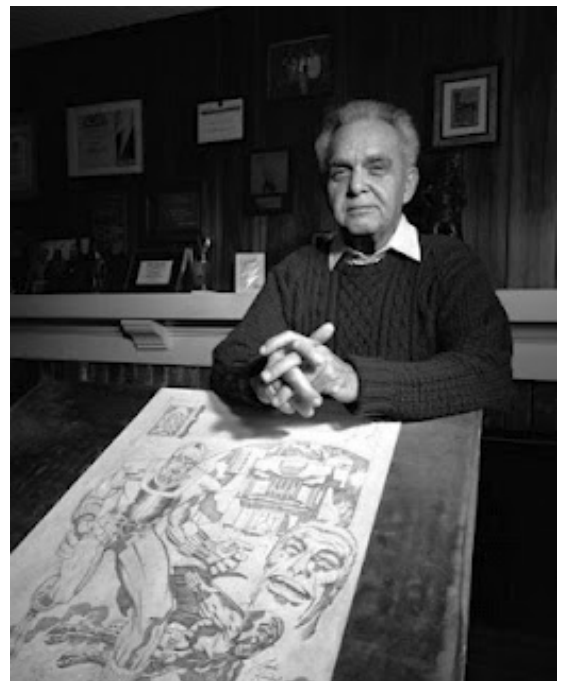
A: Yes.

MR. TOBEROFF: Vague and ambiguous.

MR. QUINN: I have no further questions at this time.

MR. TOBEROFF: I have no questions. I'm reserving my questions for Defendants' deposition of Mr. Lee.

MR. LIEBERMAN: We're gone.



THE VIDEOGRAPHER: Any stipulations?

MR. QUINN: No.

THE VIDEOGRAPHER: This concludes today's deposition of Stan Lee. Number of DVDs used were two. Off video at 3:32.

(The following proceedings were held off video:)

THE REPORTER: Can you put on the record with regard to Exhibits 5, 7, 11, and 12?

MR. QUINN: We're retaining those exhibits.

(Proceedings concluded.)